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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Monday 14 May 2001

Journal des débats (Hansard)

Lundi 14 mai 2001

Standing committee on justice and social policy

Election of Chair
Appointment of subcommittee

Comité permanent de la justice et des affaires sociales

Élection du Président
Nomination des membres du
sous-comité

Chair: Toby Barrett
Clerk: Tom Prins

Présidente : Toby Barrett
Greffier : Tom Prins



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY**

**COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES**

Monday 14 May 2001

Lundi 14 mai 2001

The committee met at 1559 in room 151.

ELECTION OF CHAIR

Clerk of the Committee (Mr Tom Prins): Honourable members, it's my duty to call upon you to elect a Chair. Are there any nominations?

Mr Steve Gilchrist (Scarborough East): I nominate Toby Barrett.

Clerk of the Committee: Are there any further nominations? There being no further nominations, I declare the nominations closed and Mr Barrett be elected Chair.

APPOINTMENT OF SUBCOMMITTEE

The Vice-Chair (Mr Carl DeFaria): Is there a mover for the motion to appoint a business subcommittee?

Mr Gilchrist: I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee; that the presence of all members of the subcommittee is necessary to constitute a meeting; and that the subcommittee be composed of the following members: the Chair as Chair; Mrs Molinari; Mrs McLeod; and Mr Kormos; and that substitution be permitted on the subcommittee.

The Vice-Chair: Is there any discussion on this motion? Seeing none, all in favour? Any opposed? It's unanimous. Thank you.

I guess we'll adjourn the committee.

The committee adjourned at 1601.

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
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Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICYCOMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Monday 4 June 2001

Lundi 4 juin 2001

The committee met at 1538 in room 151.

The Chair (Mr Toby Barrett): Welcome, everyone. This is the regular meeting of the standing committee on justice and social policy for Monday, June 4, 2001. On the agenda I see three orders of business: report of the subcommittee; a notice of motion, Ms McLeod; and Bill 12, Ms Molinari.

SUBCOMMITTEE REPORT

The Chair: Moving up to the first order of business, the report of the subcommittee dated May 16, 2001.

Mr Carl DeFaria (Mississauga East): I'm pleased to move the report of the subcommittee. It reads as follows.

Your subcommittee met on Wednesday, May 16, 2001, to consider the method of proceeding on Bill 12, An Act to increase the safety of equestrian riders; and to consider Lyn McLeod's notice of motion pursuant to standing order 124, and recommends the following:

(1) That the committee meet on June 4 and, if necessary, on June 11. The first order of business on June 4 will be debate on the motion by Lyn McLeod, pursuant to standing order 124.

Mrs Lyn McLeod (Thunder Bay-Atikokan): Mr Chair, is it necessary to read the entire subcommittee report? I'd be happy to dispense with it and take it as presented.

The Chair: Shall we dispense with the—

Mr Marcel Beaubien (Lambton-Kent-Middlesex): I think for the record we should have it read in.

The Chair: We have a suggestion that maybe for the record we should continue.

Mrs McLeod: I'm fine with that.

The Chair: I understand this would not take up any of the 30 minutes allocated for discussion.

Mrs McLeod: I appreciate that.

Mr DeFaria: This debate, which shall not exceed 30 minutes, will be followed by consideration of Bill 12.

(2) That the committee hold public hearings and conduct clause-by-clause consideration on Bill 12. If consideration of the bill is not completed on June 4, the committee will meet again on June 11.

(3) That the clerk place an advertisement on the Ontario Parliamentary channel and on the Internet.

(4) That the deadline for witnesses to request an appearance before the committee is May 28.

(5) That the deadline for witnesses to submit their written comments to the committee is June 1.

(6) That each party give the clerk a prioritized list of the witnesses they would like to hear from as soon as possible.

(7) That the clerk, in consultation with the Chair, will make all scheduling decisions. Witnesses will be offered 10 minutes in which to make their presentations. While considering the total number of witnesses seeking to make presentations, witnesses may request more or less time in which to make their presentation.

(8) That each of the three parties may take five minutes for opening comments and questions.

(9) That the Minister of Transportation be invited to make a presentation to the committee.

(10) That the Legislative research officer gather coroners' inquests and legislation from other jurisdictions that pertain to Bill 12.

(11) That the clerk has the authority to begin implementing these decisions immediately.

(12) That the information contained in this subcommittee report may be given out to interested parties immediately, as opposed to after the committee has voted on it.

(13) That the Chair, in consultation with the clerk, will make any other decisions necessary with respect to this bill.

I move this report of the subcommittee.

The Chair: I have a motion. All in favour? I declare that report passed.

Next order of business: notice of motion pursuant to standing order 124.

By way of introduction I would like to briefly read standing order 124(a): "Once in each session, for consideration in that session, each permanent member of a committee set out in standing order 106(a) or (b) may propose that the committee study and report on a matter or matters relating to the mandate, management, organization or operation of the ministries and offices which are assigned to the committee, as well as the agencies, boards and commissions reporting to such ministries and offices.

"(b) ... Whenever a motion under this standing order is being considered in a committee, discussion of the motion shall not exceed 30 minutes, at the expiry of which the Chair shall put every question necessary to dispose of the motion and any amendments thereto."

Further to the 30-minute section, I would ask the committee, would you wish to split the time into 10 minutes each for each party? Are you amenable to that? OK. I will now turn this over to Mrs McLeod.

Mrs McLeod: I will attempt to place the motion in a way which is consistent with standing order 124. Pursuant to standing order 124, I move that the justice and social policy committee meet to study and report on the issue of the determination of hospital funding formulas and hospital budget allocations.

The Chair: Thank you, Ms McLeod. Would you wish to—

Mrs McLeod: Thank you, Mr Chair. I realize we have not actually brought a standing order 124 proposal before the committee since the changes in the standing orders and I do appreciate a chance to at least get this issue on the table. I sincerely hope that the committee would see fit to further today's half-hour discussion by considering this very serious issue further.

I want to suggest that there are a number of headings that we would study this matter under. First of all, because Bill 146, the public accountability act, is to be debated in the Legislature this fall, and presumably, if it's passed, the requirement that hospitals, among others, would have to submit balanced budgets each year, I think it would be very important for the justice and social policy committee, prior to that requirement being put in place, to have had an opportunity to look at what the hospital budget situation is now and what impact that requirement to eliminate deficits within the next budget year would have on patient services.

I'm aware, and I submit this for the record today, that the per capita funding for Ontario hospitals is currently below the Canadian average. I know that hospitals are indicating they are facing some \$750 million in deficits. I believe that if you put those two facts together—that hospitals themselves are facing \$750 million in deficits and that their funding on a per capita basis already is below that of the Canadian average—there could be serious cuts to patient services if hospitals indeed are forced to bring in balanced budgets without additional funding. This is why the issue of the current funding and the funding formula becomes really crucial in the face of this legislation.

It's also important that we have an opportunity to review the hospital operating plans. That is something the justice and social policy committee has not had an opportunity to do before, but these are public documents. They are documents presented by each hospital, outlining what dollars they would need to be able to continue to provide the patient services they have undertaken to provide in the following budget year. So we would have working documents that would be very informative for the committee in looking at the reality of the funding situation that faces our hospitals.

I think it is also fair to say that if we were able to call the hospitals to speak to their operating plans, they would be able to speak directly to the areas in which cuts would have to be made to achieve a balanced budget. Again, in

the situation of current funding, it would be important for us to recognize the kinds of pressures hospitals are facing. I would point, for example, to the fact that hospitals are telling us they are at 90% occupancy and sometimes closer to 100%, or even above 100%. That of course raises the question of beds and what is an appropriate number of hospital beds. I put as a fact on the record today that hospitals in Ontario have fewer acute care beds per capita than the hospitals in any other province in the country. I put that into the context of Bill 46 and the need to look seriously at hospital budgets in order to understand what the impact of any further cuts would be on beds when we are already at over-capacity in terms of any flexibility in the hospital system.

I would also ask that we look at the whole issue of report cards, because one of the things I would congratulate the Ontario Hospital Association on doing, with the full support of the government, is to introduce report cards so they can actually report on patient outcomes. We know the first of the report cards are now being done. We know there are some very real indications both of strengths and of weaknesses of the hospital system and it would be important for the committee to acknowledge the strengths as well as the gaps in services.

I would hope that in looking at this issue the committee would also be prepared to look at benchmarks. I think that if you're going to report, people would agree that whether it's education reporting or performance reporting, any kind of performance reporting, you need to have benchmarks against which to weigh the outcomes. We have not at this point in the Ontario hospital system developed benchmarks by which we hold hospitals accountable. Given the emphasis of the government on accountability, I think the development of those benchmarks would be extremely important for us to judge how well we're meeting the standard.

I would also ask that we look at efficiency reports. There have been a number of reports done for the Ontario Hospital Association by the Hay Group that indicate Ontario hospitals meet efficiency standards. I think we would want to look at the definition of those standards, but our hospitals, by the standards used in those studies, are seen to be highly efficient, whether it is the teaching hospitals in the large urban centres or the smaller community regional hospitals.

I think I'm probably almost out of my 10 minutes, Mr Chair.

The Chair: No, you have close to five minutes.

Mrs McLeod: In that case I can expand a little bit.

Mr Beaubien: You can share it with somebody else, if you wish.

Mrs McLeod: Or let somebody else, which indeed I will do. I will be delighted to give my colleagues some opportunity to participate in this.

The issue that perhaps most strongly led me to ask the committee to review the issue of hospital funding, besides Bill 46, which we are going to be deliberating in the Legislative Assembly very shortly, is the whole issue of the funding formula and the issue of equity.

The Ontario Hospital Association has worked with the government for some three years to develop a funding formula that would ensure equitable funding for hospitals. I know there have been some major challenges in developing that funding formula, because as long as any new funding formula is based on a rejigging of current budgets, it means that while some hospitals may gain dollars because they haven't received equitable funding in the past, other hospitals will lose dollars. I don't think there are many hospitals in the province today that would want to accept a loss of funding or would feel they were getting more money than they really needed.

1550

I appreciate the political dilemmas governments face in actually wanting to change the status quo for hospital funding. The reality, however, is that there are inequities in hospital funding, that hospital funding has kind of grown in a topsy-turvy fashion. That's probably been true for successive governments, that there are historical patterns that the tendency of governments over many of the last years have been simply to either increase or decrease hospital budgets across the board.

That has perpetuated the inequities that have existed historically. There is a real challenge to be able to deal with those historical inequities if it means taking some dollars away from hospitals, but I think it needs to be looked at. The hospital funding formula is endorsed by the Ontario Hospital Association. It would take additional funding if it were to be done without decreasing hospital funding in some hospitals. It is important that we know what a truly equitable funding formula would look like and what the consequences would be, even if that means that for some hospitals there would be a loss of funding. We should understand what that is and get a sense of whether or not there is a political will to actually provide truly equitable funding for hospitals.

I'm not sure if my colleague would like to add to that. The motion may catch her a bit by surprise because I didn't have a chance to discuss it with her before coming into today's meeting, just at the outset, but I know she has personal experience of hospitals in her own riding.

Mrs Leona Dombrowsky (Hastings-Frontenac-Lennox and Addington): I would add only this to what my colleague and critic for the opposition has indicated at this committee as to the purpose for her bringing this motion for the committee's consideration. I see this as an opportunity for a committee of the Legislative Assembly of all parties to consider what I'm sure is an issue in all ridings across the province, so that we can come together and consider where there are strengths within the system and also where there are gaps in service. I've got to think that if we collectively consider those and present ideas or recommendations to the government on how they might be addressed, how the people of Ontario might better be served by the hospital system, how the funding formula might better be adjusted to actually meet the needs of the communities they serve, this would be a most worthwhile initiative.

I would like to indicate that I support it wholeheartedly. I would ask that the other members of the committee consider it in that light, as an opportunity for all parties of the Legislative Assembly to bring our very best ideas forward and perhaps bring something very positive and meaningful to the Legislative Assembly for implementation for better health services for the people of Ontario.

The Chair: Mr Kormos, have you any comments?

Mr Peter Kormos (Niagara Centre): Well, sure, I've got around 10 minutes' worth, at the bare minimum.

We are going to be supporting the motion. I want to ask government members to reflect please on the history of the now significantly altered order under which Ms McLeod brings this motion. There was a time not that long ago when, as a right, a member of the Legislature, and it was a right exercised and I'm not aware of a single instance where anybody could allege it was abused—it was a right by opposition members to have a committee, and understand the right could only be exercised when there was no other business in front of the committee, to consider a particular issue for a very fixed period of time.

Ms McLeod has been in this Legislature longer than I have, but then I've been here longer than the rest of you.

Mr Beaubien: What does that mean?

Mr Kormos: It means I've had an opportunity to see that standing order used very effectively in a very responsible way by any members of the Legislature who were in opposition caucuses—Conservatives, Liberals and New Democrats. I've seen that standing order when it was available as of right and did not have to undergo the hurdle of a motion being passed by what in effect amounts to government members. That's what's happening now, and the opposition member, rather than being able to have the committee work, when it had no other business before it, as a right in a very limited way, has to come before the committee and basically appeal to, and in a very perverse way, I suppose, plead with government members to get them to concur with, in this case, her request for consideration of an issue that, I put to you, is not a partisan issue and is an issue that should interest all of us.

I simply put this to the government members: they have an opportunity today to have the committee system do a very important job of addressing an issue that should be of concern to all of us, regardless of where our ridings are. I also put to government members that they should exercise their own judgment in this regard.

This is very much like private members' public business. By and large, the tone in that two hours on Thursday mornings is very different from what it is during the rest of the legislative sitting week. I like to think that, even when matters are somewhat partisan, basically the members of the opposing parties cut the bill's author or the resolution's author a little bit more slack than they would, let's say, a cabinet minister presenting a bill, and that there's some recognition of the fact that we all get a very limited kick at the can in private members' public business. Ms Molinari is here today. Ms Molinari's bill

was passed by the Legislature during private members' public business, and as I recall—correct me if I'm wrong, Ms Molinari—it was passed with the approval of all three parties, not just your own fellow caucus members in the government caucus but opposition members as well.

I suppose opposition members could have played silly with the bill and raised concerns about the minutiae and defects in it, but no, they didn't. They not only passed your bill, but they did everything they could—and they did—to facilitate it going to committee where it is today. I recall the subcommittee meeting, at which I was present, as was Ms McLeod, where subcommittee members did everything they could to assist you, Ms Molinari, in making these committee meetings effective. I raise that because I think it was a typical sort of display of what happens, by and large, out of private members' public business.

Today you have another example of what amounts to private members' public business, but it's not in the form of a bill. It's in the form of a request that this committee occupy itself with the consideration of something that, as I say, is non-partisan, and is of great benefit to all of us in our respective ridings. Look, there isn't a single member of this assembly, any one of 103 representatives of their constituencies, who doesn't have to deal in a very intimate way with hospital funding and the operation of hospitals in their respective ridings, and if not directly in their ridings, in the adjacent ridings where their constituents go to get hospital care and treatment.

I wasn't a fan of the rule changes. I haven't been a fan of rule changes for a long time here. I suppose, in part, in at least a couple of instances I may have played some small part in being responsible for giving rise to the rule changes, but I can tell you I never approved of the rule changes.

This is a very modest request. I think it is particularly interesting that we are dealing with a private member's bill in this committee today and my impression is that the author of that bill is at the very least subbed on to this committee, if not a full-time member of this committee. Am I correct?

Mrs Tina R. Molinari (Thornhill): I'm a full-time member.

Mr Kormos: A full member. I'm asking you, ma'am, to demonstrate some of the goodwill that was demonstrated to you in the course of the presentation of your bill in the House, in the course of its referral to this committee, and in the course of preparation for the subcommittee hearing. I'm asking you to reciprocate with some goodwill of your own. I'm asking you, as a member of this committee with voting rights, to very specifically support Ms McLeod's motion. Let's understand that this consideration doesn't happen unless the committee is idle. I want to make that perfectly clear.

1600

I suppose committee members could vote against this motion because they don't want to work when there isn't any other business before it. Committee members could demonstrate sloth by defeating this request. That's not an

unparliamentary term is it, "sloth"? They could demonstrate sloth by opposing this because it would mean having to sit for—how many hours is it, clerk, about 12 hours still?

The Chair: Mr Kormos, I can ask the clerk to address that.

Mr Kormos: Please.

Clerk of the Committee (Mr Tom Prins): There's no change in the standing order. The time period is not defined. There is no time limit.

Mr Kormos: So, this committee, then, once it passes this motion, can set about, through its subcommittee process, defining the length of time. If the government members don't find the subject matter particularly appealing politically, the solution isn't to turn down Ms McLeod's motion; this solution is for them to use their clout in determining the amount of time. I don't expect that they would be so egregiously unkind as to pick a flippantly small amount of time, but they can control that. I leave it at that.

This is a very frustrating thing. I can't read minds, but I can read body language pretty good. I'm worried that Ms McLeod may be swimming upstream. I hope I'm misinterpreting body language. I hope that the committee members here—and I hope that Ms Molinari is here, because I'm confident that, at the very least, she would want to reciprocate the goodwill that the opposition parties have shown her. I'm sure that Ms Molinari would not want to generate any ill will or antipathy toward her or her bill at this critical point in its course through the Legislature.

Mrs Molinari: I appreciate the opportunity to speak on this motion on the floor. In fact, a lot of the comments that have been made we certainly agree with. This is not a partisan issue; I agree with that as well. This is really a duplication. The Ministry of Health is presently working on the new funding formula—it has been underway for the last two years—along with the joint policy and planning committee. It is a partnership of the Ontario Hospital Association, the Ontario hospitals and the Ministry of Health and Long-Term Care.

This is definitely underway. The Ministry of Health and Long-Term Care is continuing to work with the Ontario Hospital Association and others on how to best implement the new formula. The government has asked the Ontario Hospital Association to carry out a consultation with the hospital sector to determine the amount of support the hospital sector has for the new formula. The joint policy and planning committee completed the consultation in March.

The government is waiting for the results of the consultation and the Ontario Hospital Association recommendation so the government can implement the new funding formula without changes to legislation and regulation. This new funding formula will be more equitable and it will be a way to allocate government funding to hospitals. I'm certain that all of the comments made by Ms McLeod and Mr Kormos will be taken into consideration in our working together with all of the organizations in order to implement the best model possible.

'As the government feels that this is a duplication of what's already in place and already happening, we will not be supporting the recommendation put forward. I will leave some time for my fellow colleagues if they would like to make some comments.

Mr Beaubien: Mr Kormos mentioned that he reads body language very well. I didn't realize he had a crystal ball. I didn't realize you were a charlatan; I thought you were a lawyer. However, I'll take your word for it then.

I find it offensive when you mention committee members not wanting to work. We have to look in our own backyards sometimes and assess our own personal situations. I think most of us are willing to work.

With regard to Ms McLeod, I happen to concur with the motion or the intent of the motion for a number of reasons. First of all, I had the opportunity to work in hospitals. I'm not going to tell you when, because that would tell you how old I am. I also had the opportunity to sit on the board of a hospital for nine years, between the years 1985 to 1994. If I recall, during those nine years, we were under the governance of a Liberal and an NDP government in Ontario.

Rightly or wrongly, there was always a lack of money. There was a lack of money when I worked in a hospital a few decades back. There have been some chronic, deeply imbedded problems, there's no doubt. I think there's no doubt there are more challenges today with the developments in medical procedures. They're less intrusive; consequently, they're costlier to perform. Maybe patients don't stay in the hospital as long. There have also been some leaps and bounds in the medical technology field with the equipment. We didn't have MRI machines a number of years ago. They're very costly to buy. They're very costly to operate.

I've had some concern also with regard to the way the funding has been provided to hospitals. I don't have a crystal ball. I didn't know if it was enough in 1985; I didn't know if it was enough in 1994; and, to be honest with you, I don't know if it's enough in the year 2001. However, I know that this government has spent more money on health care in the past six years. We started with 37% of the provincial budget in 1995; we are up to 45%.

If we look at what's happening in Nova Scotia, where the finance minister states that at the rate they're going in Nova Scotia, in four short years 100 cents of every dollar will be spent on health care, I don't think that's what we want in Ontario.

Consequently—because I'm probably running out of time—based on those brief comments I've made, I certainly don't have any problem with having the committee look at the way hospitals are funded in the province. I realize that the Minister of Health and Long-Term Care is doing a study. However, I think as politicians we do have a role to play, we do have a responsibility, and sometimes I like to challenge bureaucratic decisions, just as I'm sure that bureaucrats like to challenge political decisions. With that having been said, that's why I would support this committee looking at it.

The Chair: Ms McLeod has moved that this standing committee on justice and social policy study and report on "the determination of hospital funding formulas and hospital budget allocations." Before I call the vote, I'll just read yet another section of standing order 124(c), "The proposal of a member for study and report must be adopted by at least two thirds of the members of the committee, excluding the Chair." On November 1, 1999, the House determined that for the purposes of the two thirds majority required under standing order 124(c), the number be set at five. I'll call the vote.

Mr Kormos: Recorded vote, please.

Ayes

Beaubien, Dombrowsky, Kormos, McLeod.

Nays

DeFaria, Guzzo, Molinari.

The Chair: I declare the motion lost.

Mr Kormos: On a point of order, Mr Chair: Just a question. Is Ms Molinari's bill time allocated? Are all the questions going to be called at the end of the day tomorrow? Or is there no time allocation on it?

The Chair: We have a number of witnesses coming before the table. There are several amendments, as I understand. I don't know whether we would have clause-by-clause today if we have time. Does that answer your question?

Mr Kormos: Is it time allocated?

The Chair: No, it is not time allocated.

Mr Kormos: OK. Thank you very much. I just wondered.

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HORSE RIDING SAFETY ACT, 2001

LOI DE 2001 SUR LA SÉCURITÉ DES CAVALIERS

Consideration of Bill 12, An Act to increase the safety of equestrian riders / Projet de loi 12, Loi visant à accroître la sécurité des cavaliers.

The Chair: Our third order of business is Bill 12, An Act to increase the safety of equestrian riders, Ms Molinari. I would ask the committee for comments from all three parties. Are we amenable to five minutes each before witnesses come forward?

Mr Kormos: If I may suggest, perhaps the author of the bill should lead that off.

The Chair: Thank you.

Mr Kormos: It's a mere suggestion.

The Chair: I'll take that suggestion.

Mrs Molinari: I welcome the opportunity to discuss this bill in committee and open it to the presentations that are going to be made here this afternoon.

In my second reading debate of this bill, I highlighted some of the reasons why I put this bill forward. It's in memory of Elizabeth Hader, who was a 10-year-old girl in Newmarket who went on a weekend birthday party that her family organized for her and her friends to a horse riding establishment. All of the children at this party were having a very good time. Elizabeth was riding her horse, and she fell off the horse and died. Meanwhile there have been several coroner's inquests that have reported on the deaths of people, children, riding horses and not wearing proper helmets and footgear, deaths that could have been prevented if they had been wearing proper protection.

I have consulted with many organizations, and a lot of them are here today to make presentations on this bill. I encourage all the committee members to listen to the presentations because you will be hearing directly from them today on the things they told me. Generally, in essence, that consultation drafted the bill in its present format.

There are some amendments that I will be making to the bill, and I know the Ministry of Transportation has also submitted some amendments to the bill. The opportunity for that I'm sure will arise either at the end of today's session or possibly the next day. I'm certainly open to any amendments that anyone on the committee would like to make to the bill because, again, this is a non-partisan bill. It's a bill that will provide safety for anyone under 18 years of age who will be riding a horse.

I must tell the committee that during the consultation process a number of people wanted the bill to have more restrictions, wanted the age to be higher. They were looking for the penalties to be higher. So this is a first step in something that is not presently in legislation. There was a lot of controversy over the bicycle helmet when that was first introduced and it took a long time to get that passed. I haven't had very much controversy on this. Anyone who has contacted me and has suggested possible amendments—as a matter of fact, I received a letter after first reading of the bill, and in second reading debate I also said that at that point I was very prepared to make those amendments to the bill. My intent here is to provide legislation that does not presently exist and would provide for safety of those who are riding horses.

These are mainly children who are not aware of all the dangers. These are not people who ride horses on an ongoing basis and are aware; these are people like Elizabeth, who went to a birthday party and had no knowledge of the dangers she would have in riding the horse. Riding establishments are going to have to make sure that those who are riding horses are properly fitted to provide for their safety.

I know some of my colleagues would like to make some comments. I'm sorry I haven't been watching the clock, but if there's still time for them—I also want to say to the presenters who are here that I will have to leave for a few minutes because I'm also scheduled to debate this afternoon on the budget that's presently being debated in the House. So if I leave for a portion of the

time, it's not that—I have heard a number of their presentations and comments already and I welcome the presenters who will be coming.

Mr Chair, I now leave it up to some of my colleagues. I know they'd like to make some comments.

The Chair: Thank you, Mrs Molinari. You have completed your time.

Mrs McLeod: I want to indicate that at this point in time we see no reason not to be supportive of a bill that we believe has been put forward in a genuine concern about public safety. I suppose Mr Kormos might argue that I shouldn't be quite so forthright about that, but if there is an opportunity to take action which would prevent future deaths, nobody wants to be responsible for not taking that action. I appreciate the fact that Ms Molinari has brought forward this bill and given us an opportunity to act on it.

Clearly, it was very tragic that it was a recent death that led to the bill coming forward. I also want to recognize that it comes after a lot of years of inaction. Sometimes we have to recognize that governments have not seen something as a priority where action would have been possible. I appreciate the work that legislative research has done for us in providing us with some background. We've seen at least one of the inquest reports that was done more than 20 years ago now, so I appreciate the fact that action has been needed.

I will have a couple of questions along the way. I know in the subcommittee, as we discussed what presentations would be appropriate, Ms Molinari indicated to us that there were not many people she was aware of who had raised concerns. I note that there have been amendments proposed where there were some specific concerns with wording in the bill, so I appreciate that. I suspect we will hear the majority of people, if not all of the people, who are presenting to us will be supportive of the bill. Given the nature of the bill, that would not be a surprise. We have not attempted to beat the bushes looking for people who would be concerned or opposed to it. I think this is an issue which we would all want to lend support to. If there were any questions, they would be in regard to making the bill even stronger, and I believe Ms Molinari has made an attempt to do that.

Just in the area of questions I may have, though, I do want to note the fact that we would become the first jurisdiction, as I understand the work that legislative research has done, perhaps in the world but maybe just in Canada—and I'll look for a clarification of that. No, not in the world; there are two jurisdictions in the United States that have riding helmet requirements, as I understand it, but we'd be the first Canadian jurisdiction to pass legislation requiring riding helmets. One of my questions to put on the record would be, why has there been such apparent reluctance to put this kind of legislation in place?

Although I think I've made it abundantly clear that we want to be supportive in a non-partisan way of legislation which has a good intent, having said that, I want to note the fact that it was just in 1996 that the current govern-

ment repealed the Riding Horse Establishments Act. I find it somewhat odd that it would take a private member of the same government to bring forward legislation to replace legislation which the member's own government repealed in 1996. I would like to have an explanation of why the current Ontario government repealed the Riding Horse Establishments Act in 1996 and what this legislation does that is different from that legislation. Are we just replacing with virtually the same legislation what was repealed by the same government in 1996? Why was it repealed then? Why is it being replaced now?

Again, I appreciate the fact that the addition to the legislation deals with the requirement to make the wearing of helmets mandatory, which of course deals very specifically with the recommendations of previous inquiries and the concern over the tragic death that precipitated this bill. I think it would be important for the committee to have some understanding of why we now have replacement legislation for legislation that was repealed by the current government.

Mr Chair, as we proceed with the deliberations, I hope those two questions could be addressed.

The Chair: Thank you, Mrs McLeod. There's about half a minute left.

Mrs Dombrowsky: Just one question that I would hope might be answered—it may happen this afternoon as we hear presentations, and I will note that in the background information there is an indication of an individual who was 22 years old. My question is, has there been consideration of possibly requiring people beyond the age of 18, if they've not had experience riding horses—would it not be in their better interests to have the operating establishment have them wear helmets as well? I look forward to possibly having that answer.

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The Chair: Thank you. Mr Kormos.

Mr Kormos: I find it very peculiar that the author of a bill would be steering her bill through committee, but then somehow, when your caucus is much bigger—heck, not only is it bigger but everybody's caucus is bigger than the NDP caucus, and your caucus is even bigger than the Liberal caucus—Ms Molinari can't stay here to respond to my comments about her bill because she's got to run off to the House to read a prepared speech? I find that unprecedented.

Once again, why should anything surprise me around here, huh? Why should I be surprised at anything? So here I am. Ms McLeod gets to talk to Ms Molinari. Ms Dombrowsky gets to talk to Ms Molinari. Did I do anything to offend her? Did I in any way—I don't think she's afraid of me. I've never given her reason to be afraid of me. I do have some questions.

I have no doubt that the Riding Horse Establishments Act was considered red tape and government inefficiency. I suspect that fellow from down Lincoln way who got defeated in the last provincial election is now—I hope he's not on the government tab—running their Red Tape Commission. I suppose he suspected that was one of those inefficiencies. Fair enough. The Riding Horse

Establishments Act didn't provide for this type of protection, but it would have been and could have been the act that was amended. I support coroner's inquest processes and their juries' recommendations. Those juries spend an incredible amount of time working very hard.

The sad thing is that I'm going to have to repeat all this when Ms Molinari gets back. No way is this bill going to get done today. That's the sad thing. That's the unfortunate thing. If Ms Molinari had only stayed here, we could've wrapped this up. But I've got to repeat it for her benefit when she gets back.

A couple of things, though: one fellow, W. Nagy, who has written two letters with respect to this bill, is a frequent correspondent with members of the Legislature. He uses the letterhead from his business, Nagy Guitars, Custom Made in Mississauga. Mr Nagy's observations are incredibly astute, insightful, and I welcome his contribution as I always welcome Mr Nagy's letters to my office. He's always there to provide commentary on this government and its policies.

The issue that's been raised about the small pony operations that go to small towns, that go out to the parking lot of the Seaway Mall or to Auberge Richelieu down in Welland on St Jean Baptiste Day, which is coming up soon, among other things—the people who have the small ponies usually lead them by the bridle. They've got little kids who get up on the back. Mom and dad are doing their snapshots. There are letters from at least two of those operators here. I have real concerns because their comments appear to be dead on.

I read the bill and it appears that the bill is going to apply to them as readily as it will to the riding stable where people take their horses out unsupervised and go galloping off into the Walkerton pastures. I've got real concerns about that. I expect Ms Molinari to address that, because I will not support legislation that's going to do those people bad. I know those people down where I come from and they are hard-working people. Some of those folks, OK, tiny little profit margins. They've got insurance costs that would choke a horse already.

This is an unenforceable piece of legislation. Nobody's going to be out there policing the riding stables. What it does, though, is create a statutory tort. That's what it does. The way it'll be policed is by saying there's a prima facie tort by virtue of the riding stable not complying with the statute. Therefore, an injured person will sue the daylights out of the riding stable, even if that person, for instance, declined the helmet. It really isn't an enforceable thing. It's not about the fine. You're going to see very few fines levied, even against the most delinquent riding stable operators.

What it does is create some instant tort liability that we'll tune up, I agree, but really it still amounts to insurance at the end of the day. It's the insurance company that's going to pay it out. That means the good riding stables are going to be subsidizing the rare bad one that results in injuries. I will go to the wall for the little mom-and-pop pony rides that take little kids around at the local Welland county fair, wherever it happens to be, the

supermarket or the plaza parking lots, fundraising events and so on.

The other problem I've got is, why 18? What's the magic number? Some of the American legislation I note uses the age 14 and under. Why 18? I don't know what the magic number here of 18 is.

The other one really has got to go. It says that these owners or operators of a horse riding establishment shall make this equipment "available for hire at reasonable rates." What a dumb section. What the heck are reasonable rates? To a prosperous parliamentary assistant, a hundred bucks is reasonable. To federal Liberal MPs who are going to give themselves a 20% salary increase today, a thousand bucks is reasonable. Those guys are giving themselves pay increases up in Ottawa: Tom Wappel, Carolyn Parrish, people like that. They should get pay reductions. What are reasonable rates? I don't buy it.

What has to be done if the bill's going to be effective is that, first, the cost of renting a horse for a person, whatever age and under—as it is, 18—the helmet and the appropriate footwear either have to be provided or you don't get to rent the horse. Get rid of the rates business. It simply doesn't fly with the nature of this bill. People either have to bring their own or the stable has to provide it. If the stable doesn't want to provide it, then it can't rent out horses to people who don't have their own. Second, we've got to protect the little mom-and-pop pony operators. Third will remain what we hear from folks who are here to talk to the committee.

But as I say, I'm going to have to repeat this all over again, probably twice as long as I took now, for Ms Molinari when she gets back. We are definitely going to be here again next Monday.

The Chair: We now go to the parliamentary assistant for the Ministry of Transportation, Julia Munro, MPP, and to presentations. Presentations from people who come forward to the witness table will be 10 minutes each.

Mr Kormos: On a point of order, Mr Chair: Ms Molinari isn't speaking in the House; that's Mr Phillips.

The Chair: That's not a point of order.

Mrs Julia Munro (York North): I'm pleased to be here today to speak to Bill 12 and highlight a couple of the parts of this bill that the ministry thinks are particularly important. Before I do so, though, I want to confirm the kind of comment Ms Molinari made initially, simply the fact that this is an issue that, as a representative of York region, I was very painfully aware of, and the circumstances. I recognize that, as legislators, anything we could do that would help prevent this is important.

I think it also speaks to the fact that the ministry has provided leadership in a number of areas with regard to helmet requirements. If you go back a little way, you discover that, of course, helmets were not required for many activities. Motorcycle helmets were introduced in 1968. Probably next was the need to provide snowmobile helmets in 1974, and as recently as 1995 was the inclusion of bicycle helmets.

This bill is important in speaking to the issue of safety. Safety for our young people, and obviously road safety, is an important priority for this government. Clearly the intent of this bill is one with which we are all in support. The bill provides for requirements for young riders to wear the appropriate protective gear. As we look at the other examples I've provided for you, recreational activity is clearly an important thing for people, but it is also important to provide those legislative frameworks to make sure that it's done in a safe way. We see that with a number of initiatives, whether it's bicycling, roller-blading, playing hockey, or riding a horse, as is the case here.

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The bill gives us the opportunity to make sure that we continue to provide that kind of legal framework to recognize a tragedy but also to recognize how important it is to continue with legislative requirements to bring further means of safety in our communities. So Mr Chair, we will be supporting this. There are some amendments that are more technical in nature that certainly do not take away from the intent of this bill.

The Vice-Chair (Mr Carl DeFaria): Thank you, Ms Munro. Are there any other comments?

Mr Kormos: I had my hand up first, Chair. It's true.

The Vice-Chair: Mr Beaubien had indicated—

Mr Kormos: But he's older than I am.

Mr Beaubien: Not much. I have some questions for Ms Munro. She mentioned that there might be some amendments coming from the Minister of Transportation. Are those amendments available at this point in time?

Mrs Munro: Yes; I believe the clerk has them.

The Vice-Chair: Mr Kormos.

Mr Kormos: Is there a problem? Ms Molinari said she had to go talk in the House. I'm watching the channel, and first it's Mr Phillips and then it's Mr Marchese. Should we send somebody out to look for Ms Molinari?

The Vice-Chair: Mr Kormos, let's deal with—

Mr Kormos: OK, thank you kindly. To the parliamentary assistant—I am worried about Ms Molinari, though. She wouldn't mislead us, so I wonder what happened to her.

What about the issue of the little mom-and-pop—you know the ones I'm talking about. They're in small-town Ontario, all over the place, where they're leading the horse by the bridle or the horses are set up in some sort of controlled carousel-type rig. My impression from reading the bill is that they'd be caught up by this bill as well, wouldn't they? It's kids that go on those, mostly little kids; mom and dad are taking snapshots.

Mrs Munro: I will consult with legal counsel on that, because obviously at this point it is open to your interpretation versus mine. I'll certainly inquire for you on that issue.

Mr Kormos: OK, but "horse" means any animal of the equine species." One of the American bits of legislation is that "horse" means horse, mule, pony or hinny. Do you know what a hinny is?

Interjection: A donkey.

Mrs Munro: Yes, a donkey.

Mr Kormos: That's because he told you. Boy oh boy, you'd never make it on one of those game shows on television. You can't do that. Because with the legislation—

Mrs Munro: But you have one call, though, don't you?

Mr Kormos: And you've got it, you used it up. The lifeline. I didn't know what a hinny was.

“‘Horse riding establishment’ means a business”—that's what we're talking about—“that provides horses for hire for riding....” There is no other interpretation that—see, the problem is that unless you put in your definition that riding means “exercising control over the horse”—do you know what I mean? Because I understand this legislation is designed to deal with people who go get their horse and head galloping off to the horizon. I understand that, and there's no quarrel with that element of the bill.

But unless there's some definition in here about what constitutes riding—it's sort of like driving a car. While driving a car, “care and control,” means being in a position to manipulate the steering wheel etc. So I know what's intended here. The intention is, I hope, to cover those people who are exercising control over that horse through the reins and so on.

But I've got folks here, like the people who own—well, Bernie or Pam. Pam's here too, isn't she? Yes, Bernie's here and Pam's here. They worked hard for 28 years, running a little mom-and-pop kind of pony operation. The kid on the horse isn't riding the horse, the kid's sitting on the horse, but the kid has nothing to do with controlling the locomotion, the horse travelling forwards—I don't know if horses go backwards or not—but stopping the horse—

Mr Garry J. Guzzo (Ottawa West-Nepean): The ones you've been on.

Mr Kormos: Yes, they're going the wrong way around the track. You were there that night. You know.

The Chair: Mr Kormos. Do you have further questions of the parties?

Mr Kormos: I'm sorry. I want to know about that. I want to know about these little mom-and-pop operations where the kid isn't exercising any control over the horse; the kid is riding it, though. Do we want that kid to be included?

Mrs Munro: Mr Kormos, I have already indicated to you as an undertaking that we will ensure we are able to get an answer to that question for you.

Mr Kormos: OK, thank you. But do we want that kid to be covered by the bill?

Mrs Munro: The intent is that this is for “a business that boards horses or provides horses for hire for riding or to be used in providing instruction in riding.”

Mrs McLeod: Just along the same line, I think it is one of the challenges when you have private members' legislation that some of the legislative details may unintentionally take us in a direction that nobody intended. I'm going to assume that there is no deliberate intention

to put the small pony ride operations at the local county fair out of business. But I would appreciate not only a legal clarification—we need to have absolutely clear legal advice that will withstand any enforcement challenge that might occur in the future. I'm not sure whether or not the Ministry of Transportation is in a position to provide that advice or whether there is legal counsel to the Legislative Assembly or its committees which could provide a definitive position on whether or not these small pony rides are affected.

Mr Beaubien: I want to be on the record also that I share the comments made by Mrs McLeod and Mr Kormos with regard to the small type of establishment. I know some people who own that type of establishment. To submit them to more possible liability exposure I don't think is fair. I would have difficulty in supporting that, especially when you look at the way the bill is written.

If you look under section 2, it says, “Properly fitted, hard and smooth soled footwear with a heel of no less than 1.5 centimetres.” From my experience in dealing in the insurance field for a number of years, it would be a smorgasbord for many lawyers to play with this particular item. It applies also to helmets. That creates some concerns. That's an issue that has to be dealt with.

The Chair: Response, Ms Munro, or is it time for the next witness?

Mrs Munro: Yes, actually, Mr Chair, I was going to suggest that we do that, as opposed to the individual parts of the bill.

ONTARIO EQUESTRIAN FEDERATION

The Chair: I wish to call forward to our witness table, please, the Ontario Equestrian Federation, Marcia Barrett, executive director. You have 10 minutes, and any time under that 10 minutes for questions.

Ms Marcia Barrett: My name is Marcia Barrett. I'm the executive director of the Ontario Equestrian Federation. The federation is a non-profit association whose mandate is to provide leadership and support to the individual associations and industries that comprise Ontario's horse community, as well as to try to ensure the welfare of the horse.

We undertake to accomplish this through a network of 35 breed and discipline associations, over 100 equine-related businesses and more than 300 horse show organizers, all of which embrace approximately three quarters to a million estimated Ontarians who participate in equine activity annually.

Since the tragic death of Elizabeth Hader, we have escalated our work in this area of rider safety.

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I'd rather have my colleague from the Association of Riding Establishments speak to—there was some concern about the repeal of the previous legislation, and that relates to the formation of that particular organization and how that came about. He can do that better than I can.

We deal with volunteers, and not a great deal with finances, so it was only with this incident that we attempted to put greater effort into minimizing risks. We have established a trail guide certification program for providers of this activity to interested—who for the most part are non-riders. The majority of our 10,000 members tend to be those who are involved as regular riders, but the trail ride tends to be the general public that has a love of horses or wants to experience horseback riding before going forward in a more serious nature.

We've also gone ahead with a site accreditation program as a result of this so that our member riding stables can be assessed and accredited that they're meeting the minimum standards we have developed.

We are extremely concerned with the education of the non-rider. I go back to the non-regular horseback rider. We're challenged to establish a common sense approach for them when they undertake to take a trail ride. As a parent, I can be quite honest in telling you that prior to my becoming involved in this, I likely would have done exactly what Mr and Mrs Hader did: taken my child for a trail ride and put my faith and trust in that operator that they were doing everything that could be done to minimize any risk.

At this point I would ensure that my children would not be on a horse without a helmet, the proper footwear, and that goes as well for the pony rides. That just scares me drastically, that I would be even less in control with a child. Yes, they're not in control of the horse. In most cases they're sitting on top of the horse, and as we know, most of those are youngsters at local fairs, zoos, whatever. For the most part, these are probably done on parking lots because they're not permanent facilities. I would not want a child falling off. An operator cannot stop that carousel, even though the horse isn't going to bolt and run away. As we all know, anyone who has children, a youngster can just take it into their head to throw themselves, for whatever reason, and I would have great difficulty in putting my child on a pony ride at this point.

We certainly support the legislation going forward. It's acknowledged by any one of our members, our board, that the sport of equestrian is a high risk one and it's our desire to minimize that risk in whatever way we can. We've been supportive of the activity that has been undertaken in local municipalities and now with this private member's bill. I would hope that the members of this committee can see it move forward as a necessity to ensure we don't lose any further lives.

The Chair: Thank you, Ms Barrett. Each party now has about a minute and a half for questions, beginning with Ms McLeod.

Mrs McLeod: May I ask you, first of all, did specificity of the regulations—we are dealing with regulations that are unique in the country with this piece of legislation, and almost unique in North American jurisdictions, and yet they're very specific. Mr Beaubien referred to subsection 2(1), paragraph 2, "properly fitted, hard and smooth soled footwear"—and I understand the "smooth"

may be eliminated in an amendment that's to be proposed—"with a heel of no less than 1.5 centimetres."

Does it need to be that specific, and how limiting is that kind of specificity? I think New York legislation leaves that up to regulation or that there's greater flexibility.

Ms Barrett: I'm not sure. I can't speak to how necessary it is. The intent, I believe, is that we go back to the non-riding general public going out to a trail-riding establishment, who generally tend to be teenagers, and for the most part they all wear sneakers, so it was an attempt to circumvent that and to have the proper riding footwear. The heel stops the foot from going forth on the stirrup.

Mrs McLeod: I guess the concern I have is—and in my family we've done a very little bit of riding as tourists, when you go into an area where there's horse trekking—all we have is sneakers. The helmet issue I certainly understand. I appreciate the fact that if you're riding regularly you're going to have the appropriate footwear, but are we saying the footwear part of it is so crucial that it would warrant—

Ms Barrett: Part of the legislation is for the stirrup, or a tear-away stirrup, so that such individuals can wear whatever footwear they may arrive in, but then they have a specific stirrup that would break away.

Mr Kormos: Thank you, and I appreciate your comments about the pony rides. But I hope, Chair, that at some point, because you've got Bernie here, by way of unanimous consent perhaps we can get him up here, because we should be talking to him too.

But this gets more and more convoluted, because if my kid is on my own property—let's assume that I was a very wealthy Tory and I had acres and acres of property and my kid was out there at the age of 15. My kid could gallop all over the place on his or her horse with no fear of there being any requirement, although I'm not disputing the need for it. Perhaps this is as far as you can go, because how do you regulate the individual?

How should this be handled in terms of who supplies the helmet? We've got some horse rental people who are saying the whole business of being in the helmet business, you've got head lice and things like that. If kids go to a go-cart track, I don't know whether they can rent a helmet there or not. I really don't know; perhaps it's something we should have found out, and how those people deal with it. Should the rider have to bring their own helmet or should there be an onus on the establishment to provide a helmet?

You say the footwear is dealt with by way of the different stirrups. You're not talking about renting out cowboy boots. I wear my own. If everybody started wearing cowboy boots, I'd have to stop wearing them. So we're dealing only with helmets.

Are you suggesting, really honestly and pragmatically, that the helmets should be provided by the establishment, or that the establishment should say, "No, if you're going to ride a horse you have to own a helmet"?

Ms Barrett: It could go either way, if that's what the operator wanted to do, but I think the majority of them

would probably provide helmets, just like a bowling alley provides bowling shoes.

Mr Kormos: You're right.

What about the age 18? In some American jurisdictions it's 14. What's the magic age of 18? If you're over the age of 18 you can be stupid and not wear a helmet; if you're under 18 you can be stupid, but you have to wear a helmet. Do you have any sense about the age 18, what's magic about that?

Ms Barrett: Ideally we'd like to see everyone wear helmets, but I think the age was brought in, I don't know whether that was with the Highway Traffic Act or the similarity to bicycle helmets.

Mr Kormos: Perhaps it was a parallel to the bicycle helmet.

Mr Beaubien: Thank you, Ms Barrett, for your presentation this afternoon.

I too agree with you that the safety of our children is very important. However, there is a caveat. When I read, "A helmet that meets current standards set for use while riding horses as established by the American Society of Testing and Materials"—I wonder why we don't have the CSA approval, but that's OK—"the British Standards Institute, (BSI) or the European Safety Standards." I guess we don't have any standards in Canada for this type of helmet.

But from my experience of playing hockey over the years, wearing a helmet and not wearing a helmet—and I think most people who play hockey today do wear a helmet—it is as dangerous to have an improperly fitted helmet as not having one. I think you see NHL players today where the helmet probably fits properly, but the strap is not hooked on or it's loose, and the helmet comes off.

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So would you expect individuals like Pam and Bernie, in making sure the equipment that the riders who are using their ponies have the properly fitted helmet, the properly fitted footwear? I go to shoe stores today; these people sell me shoes, and sometimes you have to pay a fair dollar, and sometimes those shoes have to be worn for a bit. They don't really fit very well.

I'm afraid, from a liability point of view, that we're going to increase exponentially—I don't know by how much—the exposure that these people are going to face in the future. How would you respond to that?

Ms Barrett: The footwear one is a little easier for me to answer, in that if you are improperly fitted at a shoe store or whatever, it is obvious. The operator always has the option then of using the breakaway stirrup, even if the supposed proper footwear is being worn. Conversely, the operator is the operator, and you can deny someone the opportunity to ride. You make the rules.

I'm trying to think of an example. If it's obvious that someone is walking around in a pair of shoes that may have the heel requirement and the hard soles and is not well fitted and they're going to lose them even as they walk around, and that individual is perhaps arguing, "I don't want tearaway stirrups," or whatever, then as the

operator you still have the opportunity to refuse to allow them to ride, to take their money.

The Chair: Ms Barrett, I'm afraid that uses up our time. Thank you for coming before the committee.

WILLSON LEWIS, BARRISTERS AND SOLICITORS

The Chair: Our next presentation is Willson Lewis, Barristers and Solicitors—Catherine Willson, LLB. We have 10 minutes for your comments and any questions.

Ms Catherine Willson: Hello. I'm a lawyer with Willson Lewis. I've been practising civil litigation for approximately 12 years. I also practise horse law and I write for a national magazine called Horse Sport on the issue of horse law. So when I saw this bill, I had some comments to make. I've provided you with a handout under the cover of our firm, with my comments listed therein.

Specifically, in subsection 2(1), the bill originally states, "within the grounds of the establishment"—"shall permit any rider under the age of 18 years to ride, within the grounds of the establishment, any horse provided by the rider, unless the rider has and is correctly using the following equipment."

The concern I had with that was that it allowed for riders that were not riding out of the stable to come across the property. There are a myriad of horse trails throughout Ontario, and people pass over other people's properties on horseback. If it was a rider under the age of 18 not wearing the proper equipment who passed through your riding facility's grounds and fell off, you could possibly be held liable.

I understand that amendments will be made to deal with that issue, and it will be amendments so that basically the rider will have to ride out of that stable. So the person in charge of the facility will be responsible for any riders riding out of their stable, which will take care of that problem. People who are just riding through, the person who owns the property won't be responsible for them.

The second point was with respect to the "properly fitted, hard and smooth soled footwear," and the concern I had was with "smooth soled footwear." I don't know why "smooth soled footwear" is in there. Certainly in the wintertime you don't want to be wearing smooth soles. You want to have a sole with some kind of a grip. I believe that the wording "smooth soled" will be taken out of that as one of the amendments.

The question of "properly fitted," was raised here just now, and that is a good point. What is "properly fitted"? Maybe an amendment should be made that it simply says "hard soled footwear with a heel of no less than 1.5 centimetres" would be sufficient. That's right; how is the owner of an establishment going to be able to tell whether or not a shoe is properly fitted? Again, that might be the subject of some litigation down the road.

Point 3: Paragraph 2(1)3 requires "Suitable tack properly fitted on the horse." The word "suitable" is probably

inappropriate. Different professionals will require different tack on a horse. It is a subjective matter. One professional may use, for instance, a standing martingale, which is a piece of leather equipment that goes around a horse's neck that's designed to keep the horse's head down in a situation, where another professional would not. I think "suitable," being a subjective term, should be removed from the bill. Simply something such as "tack properly fitted on the horse" would achieve the objective you're trying to achieve without going over the top.

Subsection 104.1(1): Just the same comment regarding "smooth soled footwear," and I guess the same comment there with respect to "properly fitted."

The other concern I had was with the definition of horse riding establishment. I wondered whether or not that would include horse shows. I understand that it is not meant to include horse shows. However, there are horse shows where horses are boarded, or at least kept overnight or for a period of a week, and the definition of horse riding establishment does mean a business that boards horses. This is something on which people in the industry can comment. Most of the time, people bring their own food etc, so that probably isn't caught, but I do question whether or not horse shows are caught within that definition. I don't think they are meant to be.

On the issue of the small pony rides, that too is a good point that I hadn't thought of. In my opinion anyway, helmets are probably a good idea, but how do you police shoes? Usually you're at some kind of a do or some kind of a gala. Kids are there in their running shoes. You certainly can't get three- and four-year-olds into new shoes when they're riding the ponies. Pony operators may be able to have hats. I don't know how difficult that is, how expensive that is and what their budgets are like. But shoes—they could have the breakaway stirrups, but certainly the requirement for shoes should not apply to the ponies.

That's it. Five simple comments, if anyone has any questions.

The Chair: Thank you, Ms Willson. That leaves a little over a minute for each party.

Mrs McLeod: I actually don't believe I have a question.

Mrs Dombrowsky: I would have a comment with regard to the last point that you made. I am of course rather interested in what has been presented to the committee on behalf of the pony operators. It has been indicated that the helmet issue could be significantly problematic, particularly when one considers the health issue of pediculosis. I would suggest that the requirement of a helmet for those operations could pose a significant challenge and might even mean that these small operators would no longer be able to offer that wonderful opportunity for children.

I do appreciate the comments you made with regard to shoes that would relate to that particular business. Again, it would be very challenging in my part of the world, where pony rides are a regular attraction at the local fairs. People come to fairs dressed very casually and so the

shoe requirement, I would suggest, would be a very difficult one to meet.

I appreciate your comments, but I did want to offer my observations with regard to your comment about helmets.

Ms Willson: As has been indicated here, this is the first piece of legislation to tackle these issues. Maybe the best thing to do is keep it as broad as possible. If, down the road, there are areas that we can tighten up on as people become used to these types of restraints, then we can.

Mrs Dombrowsky: In your experience, has there been significant problems with litigation of people who operate pony rides?

Ms Willson: I haven't had a case like that, no.

Mr Kormos: Thank you, Ms Willson. I appreciate your coming. I've got to tell you, these stupid 10-minute slots are very ungratifying. I don't think any of us anticipated the variety of perspectives that would be made available to us.

I hear what you're saying, but heck, we've got a carousel down there at Port Dalhousie. You know the one you still pay a nickel for, the merry-go-round? I've seen your ponies, Bernie, and I'm sorry; in my view those artificial horses on that merry-go-round are more active than some of your ponies, if not all of them. No disrespect to your ponies. These are pretty docile, slow-moving things, so I don't know, I think we've got a little bit of a problem.

1700

Look, I've got a good friend, Diane Grenier. She's a lawyer down in Welland. She keeps horses at her parent's farm out in Pelham and she also lets people board horses there. I read this bill. Tell me if I'm wrong, OK? You're a real lawyer. Some of us used to practice law, but you are a real lawyer, so you can help us.

I've got my horse boarded at Diane Grenier's. She feeds it all week and takes care of it, but I go there on the weekend with my little niece Grace Hawkins. I take my horse out. It is my horse. I'm boarding it there. I put my niece Grace up on that horse. I'm the person in charge of my niece. I'm the person who owns the horse. I'm just renting the stable. But she's the one who gets busted if I don't put a helmet on my niece? Is that my reading of the bill? She gets busted because it is her responsibility to make sure that nobody is riding the horse when the horse is boarded there. Am I right or wrong? If I'm wrong, please say so.

Ms Willson: No, you're right, and I think it should be that way. Quite frankly, they're running a business. All businesses are run within certain rules. These stables have rules now as it stands. If you were at a rock climbing facility, you'd be required to wear appropriate equipment. If you're bowling, you're required to wear appropriate equipment. If you're at a stable, you should be too. Certainly if it was legislated I think that would be a help to the stable operators because they could say, "I'm sorry, I don't have a choice in the matter here."

Mr Kormos: "It's not me, blame the Tories."

Ms Willson: I think it could help.

Mr Beaubien: Well, if I were a rich NDP or socialist, I guess by making all these requirements, then I'd be able to afford the increased fees that we would charge those kids for riding the horses. But that's not reality.

But, Ms Willson, I agree when you mention that there has to be a clearer definition of what a riding establishment is all about, because I do have some concerns. I think there is a difference between having a ma-and-pa-type operation with young ponies on a carousel—a very smooth ride, I would think, when you compare it to a regular carousel in a circus. I don't think we expect people to wear helmets riding those horses, and the ride is probably rougher.

There's a difference between having a ride on an old pony that's managed and overlooked by whoever owns them or is responsible for them, as opposed to somebody riding into the bush or some trails. When we paint them all with the same brush, from a legal point of view I've got some difficulties. I agree that the safety aspect is very important, that we have to manage the element of risk and the level of risk. But what we are asking for with this bill is to paint the Pams and Bernies of the world with the same brush. Where is the fairness?

Ms Willson: There are amendments being proposed. You can do one of two things. You can exclude those small pony rides or you can keep them in there, have them buy breakaway stirrups and hats. If you're talking four or five ponies per ride, hats are not that much money. You can charge a reasonable fee for the use of a hat or it can be part of the price, however it works for the business. Either way, it is manageable. Either way, it works.

The Chair: Thank you for coming before the committee, Ms Willson.

Mr Kormos: Little people have little legs. I've seen little kids on those horses, I'm not kidding, where the legs don't go anywhere near where the stirrups are. Little kids have little legs. They don't reach the stirrups. I hope we get a chance to ask somebody about that.

ASSOCIATION OF RIDING ESTABLISHMENTS OF ONTARIO

The Chair: Our next presenter will be the Association of Riding Establishments of Ontario, Bruce Brown, president. We have 10 minutes, sir, for your presentation and any time left over for questions.

Mr Bruce Brown: Thank you.

Mr Guzzo: Let the record show that Ms Molinari has appeared on the television.

Mr Kormos: That's Mr Crozier.

Mr Guzzo: She was on there just recently. You missed her. I know you were worried about her.

Mr Kormos: She should be in committee taking care of her bill. I'm going to remind her of that.

Mr Guzzo: You can. I've learned not to attempt to tell any of the people in my caucus, male or female, how to behave.

The Chair: Committee, we now have before us Mr Bruce Brown.

Mr Brown: I hope we haven't cut into my 10 minutes.

The Chair: We will start now, sir.

Mr Brown: Thank you. My name is Bruce Brown. I guess I'm a mom-and-pop operator as well. I own a riding stable in Ajax. I've lived with the philosophy you're presenting today since about 1981. I ran a trail riding operation. We made helmets mandatory in 1981 for all our junior riders, strongly recommended for all adults. Yes, it's a bit of a cost burden, but it's the price of doing business today.

I represent the commercial operators who choose to be members of our organization. Our organization was very instrumental in getting the wording and the recommendations for the Aurora bylaw passed and has been active in this field for a long time. I don't feel the legislation goes far enough, but I'll be very grateful for whatever we get. I would like to see everyone mandated to use helmets. I guess we can't really legislate away stupidity on the part of adults, but we can protect our children.

We start children riding at our facility at age five. We have no problems providing helmets. Yes, there's a cost factor; it's built into the price. We're no more expensive than the place up the road that does not provide helmets, so I guess we're doing something right. We make suitable footwear mandatory. There are no exceptions to that rule at our particular facility. We also use a safety-style stirrup. I'm into overkill in a big way, but we haven't lost a child in 24 years, so I guess I'm doing something right.

Bernie and I have known each other for a long time. I understand Bernie's concern. There are logistical problems, but they're not insurmountable. Yes, there are going to be costs, but they're not insurmountable. I think they're workable. I sit here and think if Elizabeth Hader had been four years old and riding on a pony and died, maybe our attitude would be a little different. The one thing everyone seems to forget when they're talking about carousel horses and ponies and so forth and so on is that a pony is a living entity. Yes, you get them to the point where—and Bernie has excellent ponies; they're very predictable. But even he will have to admit that once in a while they do unpredictable things because they sometimes have a choice. Because there's that risk, I think they should be included in the legislation.

I found that if you introduce helmets right at the beginning—and everybody's talking about the footwear issue, but there is an exception allowing for safety stirrups, hooded stirrups. In Bernie's case, most of the time they use pony saddles, and most pony saddles come equipped with hooded stirrups. If you've seen a child riding on a saddle where their feet are this high above the stirrup, then the saddle's too damn big for the child and they should be adjusted appropriately because that too is an unsafe situation.

Two people have been killed in the last two years, and as far as I'm concerned, I think they both would have

survived if they'd been wearing proper helmets and appropriate footwear. Anyone who chooses to partake in the sport of horseback riding should have a reasonable expectation of survival. That's all I really have to say.

The Chair: Thank you, Mr Brown. We now have one and a half minutes for each party. We'll begin with Mr Kormos.

Mr Kormos: I hope Bernie Carey—we'll try after you're finished and see if we can get him up here.

Do you wear a helmet when you ride?

Mr Brown: Yes. Mind you, I haven't ridden for about 60 pounds.

Mr Kormos: I know. Horses look at me the same way too. They go, "Please don't, don't."

What about the age 18? What's your view on that?

Mr Brown: I think, without exception, my preference is all ages.

Mr Kormos: So just everybody wear a helmet. You see, my problem is—again, 17- and 18-year-olds, that's one thing. But you're telling your little kid who's five or six to wear a helmet and you know the kid's automatic response is, "Well, you're not wearing one. Why do I have to wear one?" I mean, these kids aren't stupid. These kids are very bright. They're brighter than I was. They're brighter than I am now, probably.

Mr Brown: They're wearing the helmets.

1710

Mr Kormos: That's right. When I was a kid, around three years old, in Welland, in Crowland, really, a fellow used to walk around with a pony and they'd take your photo on the back of the pony. I used to cry because my parents would never let me get my photo taken on the back of the pony.

Mr Guzzo: You could have been a Sandy Hawley.

Mr Brown: A few pounds ago, yes.

Mr Kormos: You're advocating eliminating the age, then.

Mr Brown: That's my personal preference. I realize it's unrealistic.

Mr Kormos: Why?

Mr Brown: It's my impression that it's not enforceable at this stage, much the same as the bicycle helmet law was proven to be unenforceable.

Mr Kormos: With respect, sir, that's like saying you'd change the Highway Traffic Act so only kids have to wear seatbelts. With all due respect, I say you can enforce helmets on motorcycles, and the reason the Highway Traffic Act applies is that motorcycles are on the highway. The Highway Traffic Act provisions deal with horses on roadways. This province has the power to tell people to wear a helmet when you're on a horse. I think you raise a good point. I think it should be all or nothing.

Mr Brown: At my facility, no one rides without a helmet, period. I don't care who owns the horse.

Mr Kormos: Point made. How do you provide the helmets? Can people rent a helmet there?

Mr Brown: They are available. That's for day camps only. When they're doing regular lessons, we ask them to buy their own.

Mr Kormos: But what if I show up just to ride a horse for an hour? People do that, right?

Mr Brown: Not at my place, no. I run a lesson facility. It's all pre-booked.

Mr Kormos: All right. But you know the kind of place I'm talking about, right?

Mr Brown: I ran one of those for eight years in Scarborough.

Mr Kormos: How would the helmets work?

Mr Brown: I just had a bunch of them and if they were under 16—at that time it was 16—they had to wear a helmet. If they were over 16, it was strongly recommended. We had signage all over the place.

Mr Kormos: OK, got you. Thank you very much.

Mrs Munro: Thank you very much for coming today and giving us the benefit of your expertise. I just have one question, one that actually was raised earlier by Ms McLeod. That is the question of whether these issues with regard to footwear and helmets should be in regulation. My question to you, sir, is, have you noticed changes in what would be regarded as safe gear during the course of the time of your business? Have there been changes?

Mr Brown: Tremendous improvements, especially in the helmet design. They're lighter, they're better fitting, they're more adjustable. Under the old helmets, we probably wouldn't have been able to fit a five-year-old; they were too heavy and their necks weren't strong enough. There are new lightweight helmets. There's ventilating. They have various pads to change the fitting on them. They're quick strap-connect. They really have improved tremendously.

I can comment on the smooth soled footwear too. When that went in, we were trying to prevent people from riding in lug shoes. We were just trying to prevent the big treads they have, like the snow tires on the boots. We were just trying to prevent them riding in those, because they'd catch in the stirrup, pure and simple.

There are hooded stirrups available. There is a picture of one style of them. There are breakaway stirrups, which are prohibitively expensive. These sell for about \$40 a pair, which is probably \$20 a pair more than you would normally pay just for the stirrup alone. They're adjustable. They come in various sizes to fit the smaller foot. It's very important, as far as I'm concerned, that the saddle fit the rider. To me, this is common sense legislation. I'm blowing my own horn a little bit, but I've been fairly successful in a mom-and-pop operation, operating under these standards since 1981, and I've been operating since 1977. It's not that much of a financial hardship.

Mrs Dombrowsky: My question is with regard to the health issue with the helmets. Is that a challenge for you in your operation?

Mr Brown: No.

Mrs Dombrowsky: Do you wear a helmet?

Mr Brown: All the time when I ride. I haven't ridden for a few years; I'm not in the best of health. But when I

rode, I used to ride with a helmet. When I finished riding, I was wearing a helmet, yes.

Mrs McLeod: In 1996, the Riding Horse Establishments Act—

Mr Brown: I can answer that one too.

Mrs McLeod: I would appreciate knowing your sense of why that was repealed and how this legislation is different—I appreciate that the mandatory helmet is totally different—just in terms of its effect on riding establishments.

Mr Brown: The Riding Horse Establishments Act was brought into effect about 1972, I think it was, and it was primarily animal care legislation. It really didn't address much in the way of safety and consumer concerns. It was administered by the Ministry of Agriculture. They had inspections. They'd come down and make sure your barn was OK and your horses looked OK and everything was kosher, but they really had no mandate nor standards to judge you on the safety issues.

The problem with the coroner's recommendations and stuff like that, why they weren't acted on back in the 1970s and 1980s, was basically that the Ministry of Agriculture was getting the recommendations. They circulated them, but they never did anything, because they felt it was probably outside their area of expertise.

We are looking here at consumer protection legislation, rather than horse protection legislation.

The Chair: Thank you, Mr Brown, that wraps up our time period.

INTERCITY INSURANCE SERVICES

The Chair: I would now ask Intercity Insurance Services to approach the witness table, Michael King. Ten minutes, sir.

Mr Michael King: Thank you, Mr Chair. My name is Mike King. I operate an insurance brokerage in Aurora, Ontario. I've been involved in the horse industry both personally and professionally my whole life. Among many other clients, we insure the Ontario Equestrian Federation, just so that you know, as well as the Association of Riding Establishments as organizations. We provide coverage for their individual members and we also insure, through affiliations with other brokers, probably in the neighbourhood of 700 or 800 facilities across the country in various jurisdictions.

We insure the full gamut of types of operations, everything from the pony ride type of facility that Mr Kormos has referred to so often, all the way to the show stable, the boarding place, the riding school and everything in between. So I have some perspective perhaps on all of those things.

One comment I wanted to make very briefly was something that Marcia Barrett referred to earlier. That was that the trail riding and the pony ride are sort of how people get involved with recreational riding. I think I would be typical of the vast majority of people who first become involved with horses by renting a horse for an hour on summer vacation somewhere sometime. I can

certainly speak from personal experience that that's exactly how I started. That was what tweaked the interest that led to the pony club, riding lessons and ultimately working in the horse industry while was in school. There's a natural progression for people to become involved in this sport.

As Bruce has alluded to, and others perhaps have as well, if there had been rules at that point very early on that riding helmets were a part of the gear, just as the saddle was, just as the bridle was, just as anything was, certainly I would never have questioned wearing a helmet. It wasn't until I hit the pony club where in fact you had to wear a helmet. That's just how it was.

I don't think anyone in this room—and it certainly has been apparent to me in the comments made that no one here is arguing the fact that this is common sense legislation, that indeed it does help to protect a generally unsuspecting member of the general public who may appear at a facility for the first time, having seen Roy Rogers as a kid and romanticized about galloping off into the sunset, which is not allowed in any facility that I've ever known about. No one allows that to happen any more; they just don't. If that does happen, it is by accident.

I will comment, then, on a comment that Bruce Brown made and that is that we are dealing with horses here. We are not dealing with mechanical devices; we are not dealing with something that can be turned on or off with a switch. I don't care how docile the pony is or how small it is; if a pony gets stung by a bee, which does have a tendency to happen sometimes, they're going to react.

Whether they're tethered to a carousel, whether they're being led by an adult, I promise you, if even a pony, at 650 pounds, wants to go that way, he's going to go. If he really wants it bad enough, he's going to go. There's not a whole lot of men that I've ever met who are going to stop him.

If a little four-year-old is sitting on top of that pony—and Mr Kormos referred to the little short legs on little short ponies—those little short legs have a tendency to do this sort of thing on a horse. They don't get around the horse. There's no grip; there's no reaction. The kid's gone. If that kid's not wearing a helmet, it is still four feet to the ground. If it is head first on pavement or in a parking lot, we've got a problem.

There's no operator who can guarantee me or any other consumer that that possibility doesn't exist. I guess my point's been made. That is, if anyone is considering excluding those types of facilities from the legislation, I think it is wrong. In fact, there's probably as much or more of a risk in that type of environment as there is in riding lesson environments, where a coach is theoretically just as in control and the horses are just as docile and used to their jobs in a riding ring or an enclosed space where they continue to do the same thing repetitively. They're predictable, just as a pony is on the end of a lead. So I question that.

1720

The other comment I wanted to make was that this legislation, among many other standards that have been

presented and developed over the last several months specifically, but certainly over a longer period of time through insurance underwriting, is helping operators run a more consistent business and are allowing them to provide a more professional service to the consumers.

If the cost escalates marginally because some operator finally has to go out and buy helmets, as compared to the ones like Bruce or others who voluntarily have gone out historically and bought helmets, so be it. It would seem to me that as a consumer and as a citizen of Ontario, I expect the legislation to help me with things I don't know about or the legislators to fix things I don't know about. Here's an opportunity to do that.

The Chair: We have about a minute and a half each.

Mr Beaubien: Thank you, Mr King, for your presentation. For the record, Mr Chair, I did obtain a copy of the Riding Horse Establishment Act. Mr Brown was quite right. The act was proclaimed in 1972 and it was amended in 1978. This act has nothing to do with riders. It deals with animal care and how you operate an establishment. To try to tie up the repealing of this act with this bill is absolutely ludicrous.

Mr King, you mentioned that a pony can be stung by a bee. I agree. You're in the insurance business. I spent 25 years of my life in the insurance business. The basic principle of insurance is to try to eliminate and manage the risk. No matter what we do, there will always be risk. We get up in the morning, the risk is there. I totally agree with you that we have to protect the people.

But I posed a question early on. If you have an ill-fitted or fitting helmet or boots, it does create a liability exposure. We compound the problem. Now we have the possible liability exposure if you don't have any equipment, but we compound it by having ill-fitted or fitting equipment. How do you reply to that?

Mr King: I reply in two ways. First of all, education is clearly going to be a part of the post-legislation process. There have already been a number of undertakings, by both the Ontario Equestrian Federation and the Association of Riding Establishments, to start that process by the development of literature involving the helmet manufacturers, or those who distribute helmets, in an effort to try and educate operators in the proper fitting procedures or perhaps as just general public awareness of how to fit a helmet.

I might pose the same question back. I'm not intending to be evasive, but hockey helmets are the same thing. I'm putting my utmost faith in the guy who sells my kid a hockey helmet in the store that that helmet is the right helmet and that it fits right. If it doesn't, do I have recourse to the retailer who sold me the helmet?

Mr Beaubien: You probably do.

Mr King: OK. I guess my point is, is this the first step in a process? Is it better than nothing? I would have to say in both cases that it should be. The insurance industry and risk management people like myself, and loss prevention people like myself, clearly advocate the use of any safety equipment that will help to minimize bodily injury claims, which are clearly a burden to society

generally and certainly a burden to the insurance industry.

There was reference earlier—I think by Mr Kormos, or perhaps it was yourself, I'm not sure—about the escalating and the out-of-sight insurance costs. A lot of those costs are driven by frivolous suits and by liability claims that go well beyond reason. That's perhaps a jaded view.

But my point is that if this legislation allows for insurers and other interested parties in the industry to provide an educational component, to have something to hang their hats on to be able to say in good faith that the Ontario government—and I must admit other jurisdictions, which you referred to, Ms McLeod, will follow and are in fact watching very carefully as to what will happen here today and in the next days to come.

We've had contact with operators in Alberta, British Columbia, Saskatchewan and New Brunswick personally, in our office, people asking about the legislation, asking about the implications of it, asking about when they can then start chasing their MPPs for assistance and some reference tool they can refer to, which hopefully will be Ontario legislation.

I'm not sure I answered the question, Mr Beaubien. I think I got off the track. I'm sorry.

Mrs McLeod: I'm not sure this is a fair question. You said you provided insurance for the equestrian association. If you were providing insurance for the riding establishments, would you have some concerns about the details of this piece of legislation?

Mr King: I do very much have concerns about it. One piece of information that I don't think has been distributed, or perhaps it has—there are already standards in place that the Association of Riding Establishments has put together through public forum meetings with interested parties in the industry and a list of criteria has come up. This has to do with inspection processes and other things, other guidelines that might be used as a standard. This law represents another component of those standards.

I do have concerns, but not from an increased exposure to liability. I think it is a very positive thing. I don't see any downside to this as an insurer, and we certainly do have a vested interest. We are one of the very few brokers in this province that even provides the service to the industry. It is a rather limited and very specialized niche. I'm certainly concerned about the wording in the end. We'll certainly have to interpret it in the event of a suit, but we have to take the first step.

Mrs Dombrowsky: First of all, I'm just a little curious about your claim of a 650-pound pony, because I think they're probably not of that size, the ponies in the pony rides.

Mr King: Four hundred and fifty.

Mrs Dombrowsky: Has your company dealt with any claims from pony rides?

Mr King: Yes, I have, as a matter of fact. I can tell you of an incident, without getting into details, because it is still an action. There was an incident arising where a

pony ride was brought for a fundraising activity at a restaurant in central Ontario, in a very typical situation, I would suggest. They were hired by the restaurateur to provide an entertainment vehicle for this fundraising activity. Guess what? One of the ponies got stung. The pony was being held by one of the operators, a responsible adult, and the kid tumbled and hit his head. He didn't die, but ended up in hospital. No helmet was being worn. It happens.

Mr Kormos: Intercity Insurance, sir; is this a brokerage?

Mr King: Yes.

Mr Kormos: OK. Who does the coverage?

Mr King: The underwriting company for us is Lloyd's of London.

Mr Kormos: There are no other insurers doing—

Mr King: I'm sure there are other insurers that are doing this.

Mr Kormos: Who are they, names that would ring a bell for me?

Mr King: Canadian General Insurance.

Mr Kormos: CGA—

Mr King: Sorry, they change so often now. CGU would certainly be one, although, having said that, and I can't say it with certainty, because we don't provide this class to them, to my understanding they do not provide coverage for pony ride operators.

Mr Kormos: That's interesting. I'm not finished yet, though, Chair. I just said that's interesting because I wish we had some of these insurance companies here, because they probably could give us even better info on this other stuff we are talking about.

What about the age 18? What's magic about 18? Why would Ms Molinari pick 18? Why wouldn't she say everybody? We already heard some people saying everybody should wear them. Surely, if you're talking about liability, if I'm 25, you would think that the owner of a stable should require me to wear one, right? Otherwise, I'm going to sue the owner of the stable, saying: "You never warned me I should wear a helmet. You never provided a helmet."

Mr King: And that's happened.

Mr Kormos: Well, there you go. Why shouldn't this be across the board? If we are going to make a three-year-old wear one on Bernie's fat little pony there, why shouldn't we make the 35-year-old wear one?

Mr King: I'll just stand by one of my previous comments, and that is that this is a first step. As many people have made comment today, this legislation, presumably, just in a practical sense cannot embrace all things to all people at one shot. This is a very important first step. I guess the general perception is that children—and I'm not a lawyer, so I can't define that. Perhaps you can. My understanding is that an infant child is under the age of 19 in this province, or under the age of 18? Help me out here, somebody.

Interjection.

Mr Kormos: Infant? Be careful, Ms Munro.

Mr King: Eighteen? There you go. So with the age of majority being 18, I guess we'll try to protect those who legally can't make decisions on their own.

Mr Kormos: Sixteen-year-olds can go out and—

Mr King: Yes, they can. You're right.

Mr Kormos: I think Ms Molinari should consider making adults wear them and see if she gets a response to that.

Mr King: I suppose she might do that.

The Chair: Thank you very much, Mr King, for your presentation.

1730

Mrs McLeod: Is that our final presenter?

The Chair: No, there's one more. Did you wish to make a point before?

Mrs McLeod: I have a couple of points I'd like to make before we adjourn and I know there is a vote tonight. So we have another presenter. I just have Intercity Insurance on my schedule. Who is the next presenter, then?

The Chair: I wish to call the final presenter forward.

PHYLLIS MORRIS

The Chair: I would ask Phyllis Morris to approach the witness table, please.

Mr Kormos: On a point of order, Chair: As you know, Bernie Carey is here. He's a small mom-and-pop pony operator. His partner is here as well. We've got time; we've got 30 minutes. I'm asking for unanimous consent for Mr Carey to be given a 10-minute slot as well.

The Chair: I think I hear consensus, if we could have a brief presentation. I'm amenable to that.

Mr Kormos: Thank you, Chair. Is that OK, Mr Carey? Sure it is.

The Chair: At this time, Phyllis Morris has the floor for 10 minutes, and we'll have questions within the 10 minutes.

Ms Phyllis Morris: Thank you, Mr Chairman and members of this committee. It's very difficult to sit here and listen to some of the debate and discussion that has just taken place. While I absolutely respectfully understand the difficult task that you all have to fine-tune, and words missing stand for appropriate legislation, because this is a very serious matter that we're taking—the mother of Elizabeth Hader was here earlier on, and I was taken aback by some of the comments and asked her to leave the room because it's very hard for her. This is a lady who has lost her child, a 10-year-old who had her whole life to look forward to, and was taken very tragically from what was meant to be a very pleasurable experience, as we've heard that this is all about. People want to go horseback riding.

When Laurie lost Elizabeth, she decided to go forward and try and change things, because it was very saddening to discover that in Canada, in Ontario, in York region, in Aurora we didn't have any legislation that would protect children under 18 and unsuspecting parents who aren't

used to the equestrian industry or the risk that is inherent in that type of sport. Once Elizabeth died and we looked into it and recognized that it had been coroners' recommendations over the past 14 years, and 23 deaths had occurred during that time in Ontario alone, it was very important to try and look for ways we could improve on that and prevent this happening again. We do know, of course, that no amount of safety legislation can prevent accidents or deaths, but it goes a long way, we hope, toward cutting down on some of them, if not all.

At the provincial level you're being asked now to bring forward legislation, and I urge you to move as quickly as possible.

I have to respectfully thank Tina Molinari, Julia Munro, Bob Runciman, John O'Toole, Frank Klees and the late Al Palladini, all of those who came forward and have helped support the idea of bringing in legislation. Certainly we've had the opposition members as well. Some of them have come forward and offered their support also.

Some time ago we were in the House and witnessed something that was wonderful in a democracy, seeing all parties stand and unanimously support second reading. Thank you so much for that. That went a long way to helping the family, who was still mourning, and all the others who were mourning as well the loss of those 23 children.

Clearly some of the experts you've heard from today are able to answer some of your specific questions. I also want to give recognition to the OEF, the ARE, the insurance industry and others throughout the community, throughout the province and indeed across Canada. Dr Janet Sorli of British Columbia came forward and gave her input when we were drafting Aurora's first licensing bylaw.

It must be stressed that the licensing bylaw we put in place goes a lot further than just helmets, boots and riding footwear. I would be happy through Ms Molinari's constituency office to pass forward any of those licensing bylaws so that members of all parties can read some of the hard work that went into drafting those rules and grappling with some of the wording and the terms that I've heard questioned today quite sensibly. When you're passing legislation, you have to be sure of what you're doing, and I applaud your taking the time to vet that.

In York region alone, six of the nine municipalities have already passed licensing bylaws. Again, that goes a lot further than what the province is doing here. We recognize that that calls for a lot more things. The helmet and boots and the riding footwear are essential: one without the other doesn't do enough. We've heard from the experts that that is essential. I also applaud the idea of any way you could find to bring in those pony rides and those carousel rides. They should also be included. We've heard the age of 18 questioned. Clearly again the province isn't in a position through this legislation to legislate someone's intelligence after 18, but we're talking of just trying to protect a vulnerable part of society, the under-18s, at this point.

It's like the smoking bylaw, I guess: 20 years from now, 10 years from now or, hopefully, just a year from now, people may look back and say, "Why didn't we do it sooner? People's lives could have been saved." So we're coming to you just very humanly, because it is inhuman to watch parents suffering through this. Please, I'm actually coming to you and saying, don't delay this, don't hold it back. Do everything you can to support this bill. It's crucial. It is inhuman to watch a parent suffer through what could have been prevented happen.

I'd welcome any questions.

The Chair: Thank you. We have about a minute and a half for questions from each party. Mrs Dombrowsky.

Mrs Dombrowsky: I guess perhaps I would like to make my comments around the age 18 issue. No one here is trying to delay or stall this legislation. When we enact a law, we really want to make it the most comprehensive, the best, the most inclusive. I would suggest that the death of any individual, whether they are 18, younger than 18, a mom of 35 with three children, would be as tragic. The point I would suggest we need to consider very seriously at this committee is that if an individual goes into a place of business to ride a horse and it's indicated that they've never had any experience riding a horse, would it be a better law if we said that person should wear a helmet? We had a statement here earlier by an individual who's quite experienced as a business person in this area who would suggest that's probably reasonable.

Ms Morris: May I address that just briefly? The issue there is the assumption of risk. Again, if people know the risk and it's explained to them and they have an opportunity to assume it, then they can take that risk after 18. But I respect what you're saying.

Mrs Dombrowsky: I did want to make the point that I think much of the questioning this afternoon was to determine how we can make the strongest law we possibly can. I do appreciate the comment that you offered this afternoon.

Mr Kormos: Reading the New York state legislation, which as I understand it is the only American jurisdiction that has helmet laws for horse riding, other than municipal—

Ms Morris: And Florida.

Mr Kormos: Other than municipal legislation? Let me see what the—we've got England and Wales. The ordinance in Florida is the city of Plantation; it's municipal legislation. The only state legislation is in New York state. It uses age 14. Here you've got age 18. I think I know why 18 was chosen. But I asked operators like this gentleman, who says that as far as he is concerned, anybody riding a horse in his establishment is expected to wear a helmet.

Mr Brown: Or at horse shows.

Mr Kormos: Or at his horse shows. In other words, he's not going to tolerate or condone or be a party to somebody riding a horse and not wearing a helmet.

Mr Brown: I do lose business.

Mr Kormos: Why don't we just say, "You've got to wear a helmet"? I know what you're saying. I think the lawyers—what do they call it, Mr DeFaria? Volenti non fit injuria? Is that the phrase for voluntary assumption of risk? I think that's the phrase. Ms Munro will correct me if I'm wrong.

I hear what you're saying: certain-aged people knowing that they're assuming the risk. We don't use that standard for seat belts. We don't use that standard for helmets for motorcycle riders. I'm saying that—look, the coroner's report, as I read it, from this most recent jury—"it be mandatory that suitable protective headgear and footwear be made available at all riding establishments." It doesn't restrict it to age. I don't know why the author of the bill isn't amending it. It makes it so much easier. Then you don't have somebody chasing you down. Look at George Bush's daughters, with the phony ID. You don't have kids trying to say, "Oh, I'm 19," when they're only 18, because they don't want to wear a helmet. And you've got that syndrome of your kid saying, "Well, how come I have to wear a helmet? You don't have to wear one." Why don't we just make it a law that says that people, when they're riding horses, have to wear a helmet?

1740

Ms Morris: I would applaud it if you did.

Mr Kormos: Would it be a better bill than the one that's before us now?

Ms Morris: I'm very comfortable with the bill that's before us right now. Of course, as a parent I would encourage people to set an example when they're riding a bike or a horse and wear a helmet. But, again, this bill before us is to be applauded because it's a bill that's clearly on the table now and it's one that could be passed with the support of all parties. If you can amend it, that would be welcome.

Mr Kormos: You know Bernie, who has the small ponies at the carnival? He's going to be up next. His people, along with some of the folks down in St Anns, down where I come from, have written a letter as well. They're saying this puts on an unfair restriction. They've got the little ponies that they lead around on a tether.

Ms Morris: I believe what we're talking about is commercial enterprises which are offering a service for money.

Mr Kormos: Right.

Ms Morris: We should stress that this is a service for money. Having observed one of these carousels, one of these pony rides yesterday, again as a parent and as someone who has helped bring forward local licensing bylaws, those would be things I would wish personally to see included.

Mr Kormos: OK. Good enough. Thank you kindly.

Ms Morris: All children should be protected.

Mrs Molinari: I want to thank Ms Morris for her presentation this evening, and all of the speakers. I want to address the question about being 18 years old and why that was selected. It's merely because it's consistent with the bicycle helmet act. It was in an effort to provide some

consistency with another piece of legislation that has already been passed.

In the consultation process with the Ontario Equestrian Federation, the Association of Riding Establishments and Intercity Insurance Services, at their annual general meeting, my staff and I spent a whole day there consulting with a number of people who have riding establishments. This was the best first start. It was a beginning.

There are a number of amendments that can be made in the period of time. The consultation that came to me, I remember responding to some of their comments. If I were to have taken in all of the things they were requesting, this legislation, rather than being three or four pages, would have been probably 300 pages. I would have thought that to pass legislation like that would have taken a lot of time. So with this one, it's a beginning, it's a start for something that is not there presently. This is something that I feel, and all of the stakeholders I've consulted with and those who have come here believe, is a good start and a good beginning.

I am open to amendments, and I've indicated that to the members opposite, even in private meetings that we've had, that all I want is for legislation to be passed as quickly as possible so that no other child, no other person will be subject to an unsafe riding environment.

With that, I want to again thank Mrs Morris and all the presenters. I know there is another presenter we've added on the agenda, and I'm looking forward to hearing from him as well. But all of the work you've done, certainly in assisting me in getting this bill forward, is to be commended, because I know you've been working on this for a lot longer than I have. It has been a lot longer battle for you to get this moved forward. Hopefully, with the support of all parties, we can actually make this law before the end of the month. I appreciate your coming forward.

The Chair: On behalf of the committee, thank you for coming forward.

The committee has requested a final submission, and then Mrs McLeod had some remarks at the end—or did you wish to make some remarks now?

Mrs McLeod: I just wanted to request further information to be tabled with the committee. I'll just do that as the next presenter is coming forward. As Mr Kormos said earlier, I go back for so long that it may be that my recollection of the way things once were done is not the same thing any more. But at one time, if a government bill was coming forward, there would have been impact analyses done by other ministries. I'm just wondering if there was any impact analysis done on this bill as a private member's bill, given the significance that it may have. I'm thinking in terms of the Ministry of Trade and Economic Development and the Ministry of Tourism, Culture and Recreation, and if there has been any impact analysis done by other ministries. If we could just be made aware of any concerns that might have been expressed prior to the next meeting, I would appreciate it.

The Chair: Is there information on that now, or we can table that at the next meeting?

Mr Beaubien: No, it's a separate issue. I want to—

The Chair: So we can consider that at the next meeting.

Mr Beaubien, quickly.

Mr Beaubien: For a point of information, because I don't know anything about riding—and I certainly see the merit of having a helmet—but we keep talking about footwear, and I'd like to have somebody explain to me for the record why it's imperative to have the proper footwear. I'm not being facetious. I just don't know.

Mr Kormos: Because you need a heel to catch on the stirrup.

Mr Beaubien: Is that the reason? OK.

Mr Kormos: Do you think I wear cowboy boots to make me look taller?

Mr Beaubien: No. OK, thank you.

BERNIE AND PAM CAREY

The Chair: The committee has requested a final submission, and I would ask that person to come forward and approach the witness table. Come forward, sir.

Mr Bernie Carey: I want my wife to come and talk. She's the smooth talker and she's—

Mr Kormos: If she were a smooth talker, she'd be a politician. I want both of you to come up, please.

The Chair: We have room for two people certainly.

Mr Carey: We didn't come prepared for this. We don't—

Mr Guzzo: Mr Chair, the bells are going to be ringing shortly. Let's get going, we're cutting this very close.

The Chair: Yes. If you could just give us your names, please.

Mrs Pam Carey: Bernie and Pam Carey.

The Chair: Have a seat, sir.

Mr Carey: I just thought I had a big enough mouth that I didn't have to do this here.

The Chair: No, we need a microphone.

Mr Carey: Thank you, Bruce, for acknowledging my phoning. I have to say the same about you. You have friendly, good operators.

I faxed Tom Prins something my wife wrote. Is it possible for you to read that?

Mr Kormos: We've all read it. Perhaps we could just ask you questions.

Interjection: That'd be a better way.

The Chair: All right then.

Mrs Carey: That's a better idea.

The Chair: Certainly. In rotation, then, we would begin with Mr Kormos.

Mr Kormos: As I understand it, you're concerned, as you travel around and you deal with a carnival or at the parking lot in the Seaway Mall—

Mr Carey: Or the Winona Peach Festival.

Mr Kormos: OK. How many youngsters a day are you accommodating on your ponies?

Mr Carey: Well, go per hour.

Mr Kormos: OK.

Mrs Carey: With a carousel type, we do probably 60 to 75 kids an hour.

Mr Kormos: How many hours a day would you work on a good day?

Mrs Carey: Saturday I was at Concession Street in Hamilton for eight hours.

Mr Kormos: Eight hours, so that's 500 youngsters, give or take?

Mrs Carey: Yes.

Mr Kormos: Now, you've heard the proposition that maybe—because you've heard folks saying that yes, a fall off one of your ponies is dangerous. How do you charge them for a ride on that pony?

Mrs Carey: On those things we're paid by the hour by a BIA or whatever. We're there to provide free rides for—

Mr Kormos: When you do charge with a ticket admission, what do you charge a person?

Mr Guzzo: She won't answer that question. That's not a—

Mr Kormos: No, I want to know what a kid pays for—

Mr Guzzo: Why are you worried about it?

Mr Kormos: I want to know what a kid pays to take a ride on a pony. What's it worth?

Mr Carey: It depends if the NDP is paying or the PCs.

Mr Kormos: And you charge them twice as much.

Mr Carey: When we go to Thornhill it's probably \$3.

Mr Kormos: Per ride?

Mrs Carey: Yes.

Mr Kormos: The reason I'm asking it, Mr Guzzo, is when you're charging that kind of money, can you afford to throw a helmet in? I assume you've had considerations about the need to clean the helmets. I don't know—they spray bowling shoes with something.

Mrs Carey: We've asked our customers about wearing helmets, and their concern is head lice. Our riders are getting off. We take our riders off and put the next rider on. In the midst of that, we'd have to change a helmet. Now, the kids that size or school-age, whatever, and parents are worried about the transfer of head lice, and they just say that there's no way their kids are going to do that.

Every kid on the street is not walking along with a helmet. Plus we've got to have how many helmets to cover that many sizes of heads? I don't know of any disinfectant or anything that you could spray into the helmet in the meantime, or put some kind of sleeve on the head before you change.

We've looked at all kinds of different options because we figured this was coming, but it's just not doable.

Mr Kormos: When you put the kid on the horse, where do the parents stay? Do they stay outside the circle?

Mrs Carey: They're welcome to walk with the child.

Mr Kormos: OK. And if the parent isn't there, who else is there? What other kind of adult?

Mrs Carey: We have our own staff in there, which is at least two, and an extra person, normally. There are normally three people of our staff on a job that has five ponies on a turnstile, plus the parents who want to walk with their kids. We have kids who don't even know they're on a pony, but the parents think this is wonderful. They walk with their kids, though. They stay with their kids. We have little seatbelts on our saddles that keep the kid where he's supposed to be. The only way the child is going to fall off—

Mr Kormos: Seatbelts?

Mrs Carey: Yes, we have seatbelts, and the kids understand seatbelts because they're used to going in a car. We just say, "We're going to put the seatbelt on." But that keeps them where they are. If the pony shakes—if they're itchy, they shake their whole body—the child stays there because of the seatbelt.

Mr Kormos: Thank you kindly. Oh, we've got 10 minutes.

The Chair: I think we have time, if the committee permits, for brief comments or questions.

Mr Guzzo: He wants to know how much Mr Kormos used to charge for an impaired driving defence when he was practising law.

Mr Kormos: To my friends, I didn't charge them nothing.

Mr Beaubien: You mentioned it would be difficult to change helmets quickly and then to spray them. Parents are concerned with head lice. Can you feasibly do it? You mentioned you may process 500 kids in one day. How many kids would you process in one day if you had to go through that process?

Mrs Carey: The ride itself only lasts four minutes.

Mr Beaubien: So it would take you a couple of minutes to put the helmet on?

Mrs Carey: Probably an extra four minutes, so you're going to do half.

Mr Beaubien: Would it be reasonable to ask that young children—as Mr Kormos pointed out, their feet don't even fit in the stirrups—have proper footwear?

Mrs Carey: Most of the kids who ride the ponies, their feet do not go in the stirrups. The younger ones don't have the leg movement, whatever, to support themselves on their feet anyway.

Mr Beaubien: So basically if this bill was to go through in its present form, it would put you out of business.

Mrs Carey: Pretty well.

Mr Carey: Just let me say one thing. When Pam said she worked in Hamilton for eight hours on Saturdays, she

did, but she had two sets of ponies. Those same five ponies didn't work eight hours.

Mrs McLeod: Would this bill shut you down as an operation?

Mrs Carey: Very likely. We run 45 ponies. We have three trucks and three trailers that go out. In a birthday party in a backyard, you're looking at—whoever comes to the birthday party, 12 or 15 kids. You've got those 12 or 15 kids. Within that hour, you're putting that helmet on and off each of the kids, whether they are one year old or five years old, all different size heads. We've been called on the phone and they've said their kid had hoof-and-mouth disease, that they rode our pony and got it. People don't know, so they've got to blame somebody.

Mrs McLeod: I don't want to minimize the concerns that have been raised by others coming before the committee at all, but I do want to ask how long you've been in business and whether or not you have had accidents.

Mrs Carey: We had our riding stables, so we know that side of it as well. He started a riding stable in 1962. We sold that out in 1985, and we've been in just ponies since 1985.

Mrs McLeod: And your accident record?

Mrs Carey: Well, totally ponies. We got out of the horses in 1985.

Mrs McLeod: Can you tell me a little bit about the accident record while you've been running the pony operation?

Mrs Carey: We've had no accidents. We've had kids fall off, but they weren't hurt, in a park or whatever. Kids do bail, but now that we use seatbelts, they can't bail. Kids will get scared and think, "Oh, I don't want to be here any more. It's time to get off," but we have the seatbelts there, so they don't have a choice now until we let them off.

Mrs McLeod: Is that an alternate safety requirement? It's not a requirement; you do that.

Mrs Carey: It's not a requirement. We've done that on our own.

Mrs McLeod: Is that something which could potentially be put in the bill as an alternative safety?

Mrs Carey: I know a couple of other pony ride operators that do it; I know lots that don't. We saw it in Florida at a pony ride that we went to to be nosy about. We thought it was a great idea, so we just implemented it ourselves.

The Chair: Thank you. We appreciate your coming forward on short notice. We appreciate the information.

I think we have consensus. This committee is adjourned.

The committee adjourned at 1755.

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Monday 11 June 2001

Journal des débats (Hansard)

Lundi 11 juin 2001

**Standing committee on
justice and social policy**

Horse Riding Safety Act, 2001

**Comité permanent de la
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Loi de 2001 sur la sécurité
des cavaliers

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICYCOMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Monday 11 June 2001

Lundi 11 juin 2001

The committee met at 1601 in room 228.

HORSE RIDING SAFETY ACT, 2001

LOI DE 2001 SUR LA SÉCURITÉ
DES CAVALIERS

Consideration of Bill 12, An Act to increase the safety of equestrian riders / Projet de loi 12, Loi visant à accroître la sécurité des cavaliers.

The Chair (Mr Toby Barrett): I call the committee to order.

Mr Peter Kormos (Niagara Centre): On a point of order, Mr Chair: I request a five-minute adjournment. That requires unanimous consent, of course.

The Chair: For purposes of discussion?

Mr Kormos: It might facilitate the progress of this afternoon's proceedings.

The Chair: OK, a five-minute recess.

The committee recessed from 1601 to 1609.

The Chair: Welcome, all. We're continuing discussion of Bill 12, An Act to increase the safety of equestrian riders. Today is clause-by-clause consideration of the bill.

Mr Kormos: I move that this bill be deferred for further consideration by this committee.

The Chair: What time period are we referring to? We've just had a five-minute recess.

Mr Kormos: I understand that, sir, but I'm moving that the bill be deferred to be returned to the committee at the direction of the subcommittee.

The Chair: Is there any further explanation for the committee?

Mr Kormos: That motion being on the floor?

The Chair: Yes.

Mr Kormos: Thank you, sir. I want to make it very clear that the New Democratic Party and certainly myself, as the member of this committee, support the intent of the author of this bill and we would be pleased to assist her, as sponsor of this private member's bill, in the passage of the bill as it reflects the recommendations of the coroner's inquest jury as the result of the tragic death of a youngster off a horse, without adequate helmet and under circumstances, as I understand them, that led the jury to make the recommendations it did, including that horses in what I colloquially call riding stables, where you go and rent a horse—I have no quarrel with the

proposition that those riding stables should be obligated to provide appropriate safety gear.

I should explain that in subcommittee there was some impetus to have this bill go forward with no hearings whatsoever or with no witnesses whatsoever. Ms McLeod was at that subcommittee meeting, I was there, Ms Molinari was there of course, and there was the Chair. There were people who said no, we should have some hearings. Quite frankly, horse riding is not part of my world, is not part of my universe, although I know it's very popular with so many people in so many ways.

To that end I'm very grateful—but it also revealed something about the danger of not being more careful about how we approach these things—that Ms Molinari then helped select presenters for the mere one day because, among others, it drew forward the Careys and Mr and Mrs Atkins from down in St Anns, where I come from, and it raised some issues about the bill. The bill is not a long bill. I understand that. It's a relatively brief bill. But it raised some concerns. Without the input from those people—I'm incredibly grateful to those people—I hadn't considered some of the ramifications of the bill and its impact on small business people like the Careys, like the Atkins down where I come from, its impact on what I regard as the very foundation of the horse racing industry. That's something that wasn't addressed by presenters last week, but I should raise it now, which is what my motion to defer is all about.

Down where I come from, and I suspect in other people's ridings too, we have people raising racehorses and training them who are not the mega-million-dollar racehorse owners. More often than not, these people work at their regular job 40 or 50 hours a week or however much, and then tend to their farms, with their stables and their racehorses, after hours and on weekends. One of the things they do to subsidize their small farms, with their stables—because horses, whether you're an owner or otherwise involved with them, are an incredibly expensive proposition. It's not called the sport of kings for nothing.

Horses are incredibly expensive, so what these small racehorse farm operators do is rent out two or three stables on their farm to other horse owners, people who live in the city, people who keep horses for any number of reasons: for their kids, or they do dressage. I met a young woman who does dressage over the weekend and she explained to me—I'll get into the fact that dressage

riders wear, as part of their costume, this top hat, which is not a hard hat; it's a traditional part of that very specialized sport. But it's other equestrians also. Some people keep horses just for the pleasure. They like them and they want to ride them on the weekend. Others show them. Others train them to do all these sorts of things that horses are trained to do.

The problem is that my small—I'm sure almost everybody in this room has these folks in their riding. Maybe Mr Bryant doesn't; I don't think Mr Bryant has any stables in his riding, but he's got a lot of horse people who are using these out-of-town stables. Do you understand what I'm saying? So I'm boarding my horse at De Chellis's place in east Welland, down toward Cooks Mills. De Chellis is well known on the racetrack circuit. He raises and he also trains racehorses. He's been quite successful but not extremely wealthy. If he boards my horse, if he rents a stall to me, and I take my niece or my nephew or my kid or whoever to that farm on Sunday, the owner may not even be there. He may be doing his overtime shift over at Atlas steel or Page-Hersey to make the money to pay for the mortgage on his ranch, or his little farm; I call it a ranch.

He's not there. I go and take my horse out of the stall, put my kid, niece, nephew, whoever, who is under 18, on the horse and that child gets hurt by not wearing a helmet, and the owner of that farm is on the hook too, as I understand the bill. He's liable under this provincial offence for not ensuring that that youngster riding the horse has a helmet, and also—there are others on this committee who can speak more effectively about this—that statutory obligation creates some new tort liability. Now understand, I'm a fan of tort, but I don't think people anticipated what was really going to be happening here.

Ms Molinari, I've got to tell you, has been very responsive during my conversations with her last week and during our conversations earlier today. I also spoke with other members of this committee, specifically Ms McLeod, and Ms McLeod has been very astute in her response to this bill. I've read, for instance, a proposed amendment.

I think we've got to be extremely careful about creating legislation that's going to hurt small people, that is going to target people who were never intended to be targeted. I know what the comments were by some of the presenters last week, that, "Yes, even the Careys with their little ponies and their carousel should have helmets." If people are prepared to legislate that sort of activity out of existence, then let's debate that, because that's what you're talking about.

The fact is that the Careys or the Atkins in Welland—the Atkins had two ponies at Sunset Haven, the seniors' home, yesterday, family day. We do it every year at Sunset Haven and we do one at Rapelje Lodge too. They had two little ponies there. Each pony has a person guiding the pony. The pony's only yea long, and one hand is holding the rein of the horse or the bridle, whatever it is, and the other one is virtually holding on to

the back or the butt of the kid who's sitting on the horse. I'm not going to at this point suggest that the Atkins or the Careys should—that the coroner's inquest jury recommendations were contemplating the Atkins or the Careys in terms of putting helmets on those kids riding the horses. The Careys have developed an innovative little technique that seems to be all their own about how to keep a kid on a horse, and fair enough, so be it.

I think we'd better be very careful. What I'm concerned about is that it doesn't just end with the Atkins and the Careys, or with my small stable operators down in Niagara who board horses to supplement the income, or offset the expense rather, of their farms. There could well be other groups. That's where I raised the issue of a young dressage rider, a young woman who rides dressage.

There are other people here, and we should have witnesses about that, but that's the highly stylized type of horse riding—am I correct in that? It's traditional, it's historical. The horse does special things. They do it at Exhibition Place during the Royal Winter Fair. I know they do it there. Part of the exercise is very disciplined. It's international. Canadians compete in that. Part of the exercise is wearing the uniform, including, apparently, a top hat, like an old silk top hat. This young woman said, "No, it would be absurd." I suppose change happens, but she said it would be silly to put on the helmet that's being contemplated rather than the traditional top hat.

I don't know whether this committee wanted this helmet bill to extend to dressage riders and competitors, like at the Royal Winter Fair, in the stadium, in the Horse Palace down the road here at the Exhibition. If I'm wrong, somebody's going to correct me, because they always do, but clearly the attempt here is to ensure that commercial riding stables like the ones I went to a few times as a kid—we would ride our bicycles down to Cooks Mills at the very east end of Welland. There were a couple of riding stables there. It was like going bowling. A group of us would ride our bicycles down there, 8, 9 or 10 years old, and rent a horse. They'd help you up on the horse.

Mr Garry J. Guzzo (Ottawa West-Nepean): That was Fort Erie.

Mr Kormos: No, I was too young.

The horse wouldn't gallop. The horse was a big, fat thing and knew its own way. It took you out on a little path and back to the barn. I'm sure there are sportier horses that people rent. I'm inclined to agree that any riding stable like that, that rents out the horse such that the rider of that horse has sole control—do you see where I'm making the distinction?

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My comment is that with the Careys' horses, the rider, the little six-year-old or seven-year-old kid sitting on the back so grandpa and grandma can take snapshot after snapshot or video them, does not have any control over the horse. The horse is being controlled by the people running the event. The kid's just sitting there either thrilled or terrified, depending. You've see them. You

know what's happening. The kid's either hysterical and screaming, "Get me off this thing," or the kid's screaming because the parents want to take him off. But that child is not riding the horse. The child is sitting atop it, but it is not riding the horse. It is not telling the horse to go, turn left, turn right, what have you.

It seems to me that what we want to target is scenarios where people under 18 are riding a horse in the bona fide sense of riding a horse, exercising total control of it. They are alone on the horse. They've got the reins. They've got the stirrups. They're the ones who tell the horse to go, stop, if that's what you tell a horse, I don't know. They're the ones who give the horse those instructions or orders. They're the ones who go off into the fields, or riding paths, I suspect, in tourist areas. There's terrain—I know out west in BC and so on they have riding paths where you go up into more exotic country.

It seems to me that those are to be the targets of the legislation, but the legislation embraces those and a whole big field beyond that. Ms Munro, who is the PA to the Minister of Transportation, whose input into this has been very fair and helpful to everybody—I hope to everybody; it certainly was to me. When Ms Molinari and I spoke together last week after the last committee meeting, Ms Munro was there, certainly on one occasion. Ms Munro is just from the Ministry of Transportation, as I understand it. She will correct me if I'm wrong. She can give approval or non-approval from MTO. That's the small part of the bill that talks about riding a horse on a highway, which I suppose is the only place MTO has jurisdiction; the only time the Highway Traffic Act applies is when you've got a horse on a highway.

But we haven't heard from economic development, for instance, or from the ministry of tourism and rec, which would seem to me to have a very critical interest in this. We haven't heard from carnival operators. Maybe I'm just out of date, and maybe it doesn't happen in small town carnivals any more, but the people like Conklin who take carnivals around to small-town Ontario, like where I'm from, as I recall used to have these same kinds of pony ride operations. Heck, they've got mechanical rides that are far more bouncy and insecure than any horse would ever be and there are no helmets there. That maybe raises a whole kettle of fish and I'm going to have a bunch of carnival operators mad at me for suggesting it.

I'm asking to adjourn this. I do not want to see the bill scuttled. The bill is based on some sound premises. I think that even the people with concerns about the bill, even the Careys, would agree with the general thrust of the bill. When people are going out to riding stables where they've got independent care and control of a horse, requiring those youngsters to wear a helmet, and more importantly, requiring that stable to provide the helmet or to ensure the person is wearing it—I don't think people like the Careys who operate Pony Rides—that's the name of their business—or the Atkins down in St Anns are saying, "No, do away with that." I think they're agreeing. They understand. These people have been horse people for a long time. Nobody's objecting to the thrust of the bill.

I would very much have preferred if we could have agreed on consent to simply set the bill over because with all due respect—I read the motion, that if the bill is adjourned, I trust it will be put forward—I appreciate that it was an attempt to do—well, it's an attempt to do what it's an attempt to do—but I'm concerned because it hands it over to regulation and that scares the daylight out of me. Do you understand when we say "exempt people by regulation"? That means it never comes before the Legislature. It happens, effectively—again that's just the nature of the beast—behind closed doors. Nobody gets a chance to provide input on so-called regulations.

I'd appreciate some advice from research, legal counsel, what have you, because I'm worried about a bill that defines something in the body of the bill—in other words, who's covered; that's what this bill does—and then has, by exemption, regulations. I think it's a sloppy way to write legislation. Usually you use regulations to do other things; for instance, to define classes referred to in a bill. To create a broad definition in a bill and say "other than those exempted by regulation" seems to me—because the broad definition, insofar as my modest recollection of how this works is concerned, is it has to be interpreted pretty broadly, unless it is in itself strict and narrow, but then the exemption, if it's an exemption, has to be interpreted very narrowly, very conservatively. That creates real problems too.

We don't want to create more problems; we want to solve a problem. I'm inside in that regard. I want to help solve a problem. With all due respect to Mrs Molinari, I'm eager to do it today, tomorrow, whenever, but I suspect that if the purported solution, with all due respect, is the regulation exemption solution, it's not a solution, it creates trouble.

Then I'm also worried, because how long do the Careys have to wait for that regulation? They have no guarantees. I'm sorry, but if you put these folks out of business for a year, you put them out of business forever—they're finished. People like the Careys, people like the Atkins—they're just two of what I'm sure are many family-run operations, mom-and-pops here in Ontario—are an integral part of our agriculture industry. They're the people who buy the feed. They're the people who keep small-town grain stores operating, the co-op mill and so on. They are, aren't they? They're the ones who do that stuff. They're the ones who are the last line against corporate farming and, in many cases, simply the abandonment of farming so that we buy all the stuff we eat from down in California.

These people are at the front line of the agriculture industry. They're good folks. They've worked hard, for lifetimes. They haven't got the money to hire high-priced lawyers to do challenges and stuff like that. They've worked too darn hard, the Careys and Atkins and others like them—I know these people. You've been in their homes, Chair. I know you know them from down in the neck of the woods you come from.

The Chair: Mr Kormos, I think our 20 minutes are pretty well up.

We have a motion to defer this bill. Further debate?

Mr Morley Kells (Etobicoke-Lakeshore): My own personal view is that I'd rather defer than do anything in haste, because we all know from experience that if you get something on the books, it's very difficult to amend it or get it off the books.

Before I go on, I would like to point out the obvious: Bill 12 stands in the name of my colleague. She has given this, as you know, considerable time and has spent, I guess, as much time as anybody could on interviewing and trying to find just exactly the solution, if I could call it that, to the problem. Before the government side would sort of jump in haste to support the deferral, we wonder exactly how long we're deferring for and for what gain.

We're not here to quarrel with the arguments or the points made by the honourable member, but the bill has had a considerable history. I think the point about the MOT's amendments is well taken. A bill, if it's going to be an efficient bill, has to solve all the problems that may be attendant upon what we're trying to do.

As you know, Chair, we could defeat this deferral and then we'd have to listen to the arguments over again, and maybe at a somewhat higher pitch. What we would like to do, if the Chair and the other members would indulge us, is call for a five-minute recess, if that's possible, so we could discuss it among ourselves, and then we'd be pleased to vote on the deferral motion.

The Chair: I'll just indicate to the committee that I do have a request from Ms McLeod for further debate, and then could we—

Mr Kells: Sure, that would be fine.

The Chair: Secondly, to answer your question, Mr Kells, as I understand, Mr Kormos's motion is to defer this bill and the time period until further consideration by the subcommittee.

Mr Kells: You want to defer it to the subcommittee?

Mr Kormos: Yes, sir.

Mr Kells: That's fine.

Mr Kormos: On a point of order, Mr Chair: I would consider friendly amendments to that motion, to the terms of it. If you can be more creative than I am, God bless.

Mr Kells: I hear the honourable member. What we're trying to do here, if I may speak for the members who brought this bill forward, is get some solution here, get something on the books. But it has been a while, and we're quite prepared, I do believe, to take a little longer and get it right. So that would be the position we're probably going to take, but I'd like to discuss it with the members of the committee.

The Chair: I would like to turn to Ms McLeod and then consider the five-minute recess.

Mrs Lyn McLeod (Thunder Bay-Atikokan): I'll restrict my comments to the issue of adjournment. I guess my questions are around the time frame. I'll be quite frank. I share many of the concerns that Mr Kormos has outlined. I think those came as insights for the committee in the hearings. I don't think they were issues that were unaddressed in terms of the presenters who were support-

ive of the bill. So there's clearly a difference of opinion as to whether or not those issues should be addressed in the legislation. But I share Mr Kormos's concerns based on the input that we heard and feel that with more time we would be able to determine whether or not there should be some substantive changes actually included in the bill.

My concern, though, about length of time for deferral and how soon we could deal with it is that I, quite frankly, believe that the substance of the bill is necessary. I believe it needs to go ahead. I would be really concerned if we delayed the bill to the point where we went into the summer recess and into the fall and there was any accident, God forbid, that might have been prevented if we had been able to move this legislation through more quickly. That's one of the issues that gives me some pause.

I know we seem to be arguing; it's unusual for opposition and government to maybe be taking different views on this, and it's not a different view. I just would like to know whether or not we can deal with some of the concerns about being too hasty in not dealing with the issues that were raised by Mr Kormos and still be able to get this legislation potentially passed in an amended form in order to deal with the summer riding.

The Chair: I'll just draw to the attention of the committee that we did receive a memo from Carolyn Barnes, a research librarian, which pointed out some press material, and secondly it dealt in part with the question of how ministries would be affected by this legislation. I just draw that to the attention of this committee. This committee is recessed for five minutes.

The committee recessed from 1634 to 1642.

The Chair: Thank you, committee. We have a motion on the floor. Further debate?

Mr Kormos: I'd like to amend that motion so that the motion would read that Bill 12 and its consideration be adjourned to Monday, June 18 at 3:30 pm or at the commencement of orders of the day, whichever occurs first.

The Chair: Thank you, Mr Kormos. Any further debate?

Mr Kells: That would be the only order of business.

Mr Kormos: Quite right, and that that be the only order of business.

The Chair: Further debate?

Mrs Tina R. Molinari (Thornhill): Are we debating now the deferral and the amendment to the deferral on—

The Chair: We're debating a motion to defer this bill until Monday, June 18.

Mrs Molinari: In consideration with my colleagues and some of the concerns that have been raised, as long as I'm assured that the bill will come back before the committee and that this committee will give it due consideration before the House rises, then I'm prepared to support this deferral. But, Mr Chair, I want to stress the importance of having this bill passed. This is not a bill that was just introduced and discussed the last few months; it's a year and a half that this bill has been circulated across the province of Ontario. It has been

circulated across many stakeholders, and we've heard some of the stakeholders come to the hearings and we are receiving letters from others who are now finding out that the bill is in fact close to passage. My concern for this bill is to ensure that it is passed within a short period of time. I'm prepared to support the amendment, providing that there is a date, and I understand that the amendment is to defer it to June 18.

Mrs McLeod: I will certainly support it, but I think the work of the subcommittee can only be effective if it's clear that we're going to have some indication, some very clear indication from the government, as well as from Ms Molinari, as to which of the exemptions would be recommended to be built into this bill. I put forward an amendment as a way of trying to save the bill before the summer in the hopes that there would be good faith that the government was not intending to catch Carey's Pony Rides or the racehorse operators who board horses or now the dressage groups. It's very seldom that you'll hear me say on the record that I was going to take the government at face to be able to do this, but as I said earlier, I felt it was important that we find a way to get the bill passed for the summer.

Now that the subcommittee is meeting to further consider these issues, it's absolutely imperative that we have clear answers from the government as to how this bill should be amended to exclude the groups that they feel should not be included, and if they're not prepared to make those recommendations, we need to know where we go. Because otherwise we'll be back basically to today's point in time.

Mr Kormos: I feel compelled to respond to the sponsor of this bill. Look, it wasn't the opposition parties that waited until April 25 to present it, it wasn't the opposition parties that determined when it was going to have second reading, it wasn't the opposition parties that drafted it. What the opposition parties did do during subcommittee was insist that there be some modest amount of hearings, and quite frankly, had the opposition parties not done that, Ms Molinari, your preference of having no submissions would have prevailed and people like the Careys and people like other pony ride operators would never have had an opportunity to raise this issue.

You didn't anticipate this issue. None of your people anticipated the issue of the private pony rides, small entrepreneurs across this province. None of your people anticipated the issue of horse race people across the province with their small stables. None of your people anticipated the issue of dressage. So please be careful about how you try to be critical and make implications about what opposition members are doing. I resent your comments in the context of opposition members having tried to be very co-operative with you in making sure this bill is pursued. So—

Mrs Molinari: Point of order, Chair—

Mr Kormos: No, I've got the floor.

The Chair: Point of order? Yes.

Mrs Molinari: I would like the member opposite to clarify exactly what I said that is leading him to suggest-

ing that I was making any comments about my work with the opposition.

The Chair: That is not a point of order. Mr Kormos and then Ms McLeod.

Mr Kormos: But it does warrant a response, and that is that Ms Molinari says, "Oh, this bill's been floating around for 12 months. It's a surprise that all of a sudden these issues are being raised." Obviously the bill wasn't being floated around among the right people in the right circles. Obviously the Careys hadn't heard about the bill until it was brought to committee and they became conscious of it. Obviously the Atkins hadn't. So don't play that game, Ms Molinari. I'm not responsible, nor is any other opposition member responsible, for this bill not being passed sooner. The fact is that the rather flawed drafting of the bill—and again, I have no interest in ascribing fault, but you've raised the issue—and the failure to adequately contemplate all of the people it's going to impact is what has caused the delay from this week. So, please, let's move on.

I expect the government to present amendments that will meaningfully address people like the Careys, because I don't want to see them put of business. I'll do anything I have to to prevent them or the Atkins from being put of business, to prevent people like Mr De Chellis and others like him down in Niagara with their small race horse operations from being put out of business, and quite frankly to protect the interests of dressage riders and similar equestrian types who clearly weren't part of your consultation and hadn't received adequate notice of the bill. They expressed surprise, and it was only as a result of that one afternoon of hearings that they had any concerns about the bill.

Nobody in the opposition parties is blocking this bill, nobody is delaying it. We raised these concerns last week and the fact is that you came here empty-handed today. The matter could have been dealt with today had amendments been considered and prepared. All you've got today is the Ministry of Transportation, and quite frankly I take his position as it stands because it deals with horses on highways. But there was nothing produced by you or the government that addressed the concerns that were raised at the last committee hearing, and quite frankly were raised with you in conversation subsequent to that. So please—

The Chair: Further debate on this amendment to the motion?

Mrs McLeod: I just think for the record we should recognize that to the best of my knowledge, in fairness, the government referred it to committee—belatedly, I agree. My criticism has been that this committee had not been well used for other significant legislation which could have been before this committee. But I do think it was the government that referred this particular bill to the committee and it was the government that recommended hearings. I don't think any of us anticipated some of the concerns that were raised at the hearings, so I'm glad the hearings were there and I'm glad that we heard the concerns.

The challenge now is that we need—I'd like to think that we all feel the same challenge, which is to deal with those concerns that were raised at the same time as we find a way to move forward on the substance of the legislation. Hopefully the subcommittee meeting—in that spirit and with the support of the government taking quick action to respond to these issues, we can still get this bill passed by the end of the session.

The Chair: I wish to put the question. Bear with me. I'll attempt to—

Mr Kormos: Recorded vote.

The Chair: I'll attempt to describe the amendment. The amendment is a motion to defer this bill until Monday, June 18, and that it be the only order of business. Is that our understanding of this amendment?

Mrs McLeod: Was it not going to the subcommittee?

Mr Kells: Deferring it to the subcommittee, and then the honourable member amended it to bring it back on June 18 as the only order of business.

The Chair: Yes, no subcommittee in this amendment.

Mrs McLeod: So the government reports directly to this committee with amendments? Is that the intent?

Mr Kells: I would suggest that the government would be back here with amendments to reflect the discussions we've had today. We will have been counterproductive if we don't do that.

Mr Kormos: If I may, it's not quite into the vote yet, I'm hoping that sometime before next week Ms Molinari discusses this matter with the opposition members, and of course her own people, hopefully shows us the amend-

ments, and this matter can proceed relatively smoothly next Monday. However, failing that, I've made a commitment to the Careys, I've made a commitment to the Atkins down in my community, I've made a commitment to racehorse people, that I will keep.

The Chair: Shall I put the question?

Mr Kormos: Recorded vote, please.

The Chair: Shall the amendment to the motion carry? All in favour?

Ayes

Bryant, DeFaria, Guzzo, Kells, Kormos, McLeod, Molinari.

The Chair: I declare that amendment to the motion carried.

Shall the motion carry?

Mr Kormos: Recorded vote.

Ayes

Bryant, DeFaria, Guzzo, Kells, Kormos, McLeod, Molinari.

The Chair: I declare the motion carried.

I declare this order of business closed.

The committee adjourned at 1652.

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Monday 18 June 2001

Journal des débats (Hansard)

Lundi 18 juin 2001

**Standing committee on
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Committee business

Horse Riding Safety Act, 2001

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY

Monday 18 June 2001

The committee met at 1539 in room 151.

COMMITTEE BUSINESS

The Chair (Mr Toby Barrett): Welcome, everyone, to this regular meeting of the standing committee on justice and social policy for Monday, June 18. There are two main items on the agenda. The first item arises from the most recent vote in the Legislature with respect to Bill 58. I would just briefly throw out to the committee, with respect to Bill 58, that this committee will be considering the ambulance bill tomorrow, and two questions arise: when should we begin our proceedings, and secondly, any suggestions on a deadline time for any amendments to Bill 58? I understand the bill is time-allocated tomorrow. We would commence clause-by-clause at 4:30 in the afternoon.

Mrs Lyn McLeod (Thunder Bay-Atikokan): Do you know, Mr Chair, whether the government is planning to introduce amendments?

The Chair: I don't have that information as Chair.

Mrs McLeod: I don't think we could expect amendments at this point before noon tomorrow, but I hope it would be possible to table amendments by noon so that we have some sense of what we're looking at. Had you thought it might be possible to get them in sooner?

The Chair: Perhaps hoping a bit sooner. The clerk has informed me they need some time to deal with the amendments and get them in order for our consideration.

Mrs McLeod: We're going to be in committee here until probably later this afternoon. I don't think it's reasonable to think we could have them in for 9 o'clock tomorrow morning. I'm not the critic, but I know we have amendments to propose. I don't know whether there's been any prior notice given to the caucuses to say we have to have amendments in by a given time. If not, I think we should allow at least the morning.

The Chair: I can discuss with the clerk how much time they would require in the afternoon to get them in order, if that was possible. I'll take that under advisement.

Mr Rosario Marchese (Trinity-Spadina): Does the clerk have suggestions in terms of a reasonable time?

The Chair: I could ask the clerk.

The clerk has advised me that 12 would probably be OK, to give them time to pull things together.

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Lundi 18 juin 2001

Any other comments with respect to the deadline for amendments?

Mrs Margaret Marland (Mississauga South): I was just going to suggest that the inquiry is really to be heeded by all of us, as members, to deal fairly, logically and responsibly with whatever the amendments are from any member of the committee. So are you now saying the amendments will be circulated after 12 o'clock or by 12 o'clock?

The Chair: That's my suggestion. I have not made a final decision, as Chair. I'm just asking for input.

Mr Marchese: What are you recommending, Margaret?

Mrs Marland: I may not be here tomorrow; I'm only subbing in this afternoon. But I just want to say that I think the request is reasonable, if it's feasible for that to work, if the deadline is to deal with the amendments tomorrow.

The Chair: On the second item, I would like some feedback with respect to the start time. Normally this committee meets at 3:30.

Mrs McLeod: Sorry, I do have my hand up about the timing. If the amendments are in at 12 o'clock, how soon would it be possible to circulate them to committee members?

The Chair: I could ask the clerk.

Clerk of the Committee (Mr Tom Prins): It depends on the volume, but we should be able to turn them around quite quickly. We'll just photocopy them and send packages out to the members.

Mrs McLeod: From our perspective, this is a very important piece of legislation. It's one we very strongly feel needs to be amended, and we weren't very excited about the fact it was going to clause-by-clause so quickly without there being any hearings on it. But given the fact that that's what we've been handed, I do think it's important that we have enough time to at least see what amendments the government may be proposing.

Mr Marchese: So, Lyn, should we perhaps be proposing 11 o'clock as a deadline? Would that work for you?

Mrs McLeod: I don't know what's feasible. I think noon is possible, to circulate copies of the amendments to the committee members hopefully by the time the House resumes at 1:30. Then we don't have any choice but to start right after orders of the day, do we?

The Chair: We have a choice of start time. If we felt there was considerable discussion required, we need not start at 3:30. We could start earlier tomorrow; certainly not during routine proceedings, but we could start at 10 o'clock in the morning.

Mr Marchese: At noon.

The Chair: I don't think it would be possible to get them that soon, unless the deadline for amendments was 9 am. The clerk could possibly turn them around by 10.

So that's the second question. I'm asking for any advice. I'll just make mention of the resolution put forward by Minister Ecker, and I'll just read: "... the committee be authorized to meet in the morning but not during routine proceedings, and that the committee be authorized to meet beyond its normal hour of adjournment, until completion of clause-by-clause consideration."

Mr Marchese: Except it's a problem in terms of the amendments. We don't know whether the government has amendments, and obviously we need some time for the opposition parties to present amendments, so we can't meet in the morning.

The Chair: I guess we have two moving targets as far as start time and the deadline for amendments. Any input you have with respect to adjusting those accordingly would help me in making a decision.

Mrs McLeod: I come back to my earlier question. I realize you don't have information about whether the government is tabling amendments, but presumably if the government is tabling amendments, they are ready to go. If the government could make those amendments available to us at 9 o'clock, I think it would be highly desirable to meet in the morning in order to look at the government amendments, and we could get our amendments tabled as soon as possible after 9.

The Chair: Oftentimes in committee, amendments sprinkle in over time. But I feel, for administrative reasons, it would be better to have all the amendments at the same time, to set one deadline for all amendments.

Mrs Marland: Do both the opposition parties have an amendment or amendments?

Mr Marchese: Yes.

Mrs Marland: So what is the government doing?

Mr R. Gary Stewart (Peterborough): Just a comment: why don't we sit tomorrow morning?

The Chair: Any further suggestions?

Mr Michael Bryant (St Paul's): The point here is that we want to have as much notice and debate time as possible. If we're getting the amendments at 9 am, then the more time we have to debate them, the better. If that means us meeting tomorrow morning, that's fine. But we have to get some notice here so we can work on it, as opposed to getting them at the same time the meeting is called. I would ask that the variables be that we have as much time to debate it as possible and that we're given notice of these amendments as soon as possible.

Yes, the opposition has amendments. We want to see what the government amendments are, of course, since if there is some overlap, then there is no need to reintroduce

them, or if there are amendments to the amendments, then we'll have some idea of what changes we might want to propose.

The Chair: Any other input for consideration?

Mr Stewart: As you know, the government caucus doesn't meet tomorrow morning, but because of the importance of the bill and getting amendments in as quickly as possible and getting on with this, they will meet tomorrow morning. It will not cause a problem, if the opposition is so agreeable.

The Chair: Any further thoughts? Any further discussion?

Mr Marchese: It would be good to hear your thoughts, Mr Chair.

The Chair: Off the top, I have heard 9 am as a deadline for amendments and meeting at 10. I have heard a number of times.

Mr Marchese: I suspect we would be prepared to meet at 10 too, if that's the case.

Mrs McLeod: My reluctance is that at this hour in the afternoon I'm not sure I can reach the people who need to put amendments in front of the committee by 9. We could easily have the amendments there by 10; I'm sure of that. I just think 9 o'clock is difficult at this hour of the afternoon. If we could be comfortable meeting at 10 and tabling the amendments at the same time, I would certainly be happy with that.

Mrs Marland: I think that sounds reasonable.

The Chair: Anything further?

Mr Stewart: I think the government could agree to that.

The Chair: Thank you. Shall we complete that discussion? I'll declare that order of business closed.

1550

HORSE RIDING SAFETY ACT, 2001

LOI DE 2001 SUR LA SÉCURITÉ DES CAVALIERS

Consideration of Bill 12, An Act to increase the safety of equestrian riders / Projet de loi 12, Loi visant à accroître la sécurité des cavaliers.

The Chair: For our next order of business, we are discussing Bill 12, An Act to increase the safety of equestrian riders. More specifically, we will be conducting clause-by-clause consideration of the bill.

We will first be dealing with section 1 of Bill 12. Before I call the question, is there any debate on section 1? I see no amendments to section 1. Shall I put the question?

Mrs McLeod: I realize this is clause-by-clause, but do I understand that Mrs Molinari has a further amendment to be tabled? Could we ask to see that amendment and know what section it applies to?

Mrs Tina R. Molinari (Thornhill): It should be in your package in front of you.

If I could, Mr Chair, maybe it would be beneficial—

The Chair: Mrs Molinari, you have indicated this is in our package?

Mrs Molinari: Yes.

Mrs McLeod: These are government amendments. I have an amendment to paragraph 3 of subsection 2(1)—

The Chair: Would page 4 be the new amendment?

Mrs McLeod: It's always a question of whether or not we're working from old or new packages.

Mr Marchese: It's these amendments in the package, right, Mrs Molinari?

Mrs Molinari: Yes, it should be in the package in front of you. It should be the fourth one. It's subsection 2(5) of the bill.

Mrs McLeod: What page is it?

Mrs Molinari: Page 4 is the new motion.

Mrs McLeod: Got it. Thank you very much, Mr Chair. That does clarify it for me.

The Chair: This would be the only new amendment since we last met.

Going back to section 1, shall section 1 carry?

Mrs Molinari: Before we begin with clause-by-clause, I don't know if this is an opportunity, or at another time, to address some of the points that were raised at the last meeting and some of the ways they've been addressed. Either we go clause-by-clause and I can address them when the time is appropriate, or I can make some initial comments now or at the end, whatever you like.

The Chair: You may wish to make some initial comments now, to better prepare us to vote.

Mrs Molinari: A number of concerns were raised at the last meeting. I have received some input from the Ministry of Consumer and Business Services. Some of the issues were around the Technical Standards and Safety Act, whether or not this meets with that regulation.

The ministry's response to that is that the TSSA does not regulate this area. The current Amusement Devices Act and regulation governs the operation of amusement devices which are defined as a machine, contrivance, structure, vehicle or device. In other words, only mechanical amusement devices are caught by the legislation. In addition, the regulation expressly excludes live animal rides from its operation. This definition and exemption have been carried forward into the proposed amusement devices regulation under the Technical Standards and Safety Act, 2000.

I can have copies of this for the members if you'd like. So that addresses the TSSA.

Some other comments that were raised had to do with the concern over head lice. We've called a number of establishments—batting cages and go-carting—that also use helmets. For the record, I would like to state what some of those do. I could highlight Goodwood Kartway in Stouffville: all the helmets are sprayed with disinfectant for lice. Santa's Village in Bracebridge: they're cleaned and disinfected at the end of each day. What I am trying to highlight here is a number of other safety-type sports that also use helmets. Niagara Go-Karts sprays

with disinfectant—RNC is the name of the product; it's a daily lice spray.

Wildwater Kingdom also cleans and disinfects them at the end of each day. At Formula Kartways in Brampton, they're sprayed with antibacterial, and this I found interesting: as an added precaution, all riders must wear a disposable plastic shower cap under the helmet. So this is not something that's new, where helmets are passed on from one rider to another. There are also other organizations that do that.

The issue around the pony rides: I believe everyone on the committee has received a letter from one of the presenters last week that talks about some of the concerns with the pony rides and the safety factor with those also being required to wear helmets.

I have a letter from the Canadian Pony Club that says they have some 4,000 members across Canada and are also part of the worldwide network of pony clubs. They talked about safety as an integral part of their program: "Our members are not allowed to partake in any mounted activity unless they are wearing properly fitting riding helmets which meet the standards and properly fitting footwear with heels." That's just to highlight some of the pony organizations and pony clubs that are already taking these types of precautions.

So when we're looking at the amendment that will be coming in the next little while, the Liberal amendment that talks about setting some regulations to exclude some establishments, it's important to note that we're going to be looking at excluding some of those through an order in council so that not to exclude putting it in the legislation would exclude all of them. Some are already in the process of doing that, so it wouldn't make sense to exclude those that are already doing it by virtue of feeling that it's a safety issue.

There are some that by reason of amusement park and other areas—we got letters from one pony club that say that each child is assisted by an adult and they're actually on a carousel. So these might be the ones that would be excluded in a regulation, providing that it's properly researched, and they would in fact merit an exclusion because of the safety factors that they already are taking into account in these organizations.

I wanted to put that forward, that the concerns that were raised were investigated, and this is some of the feedback that I received. I believe that the amendments that are coming forward are going to cover some of the concerns that were raised; also the one where there is an establishment, that the owner of the establishment not be responsible for those that are renting on that establishment. It's covered in one of the amendments. Also, one of the amendments covers the issue of competition. This legislation was never intended to include competition, but it was brought to my attention that nowhere in the actual bill was it excluded, so there is an amendment coming forward today that will exclude competition.

With that, I think I've covered all of the concerns that were raised. I believe that in passing the amendments that

are going to be coming up we've really done a thorough research, and we can proceed with passing these amendments.

The Chair: Any further discussion?

Mrs McLeod: Mrs Molinari's comments give rise to a number of questions. They probably relate specifically to the motion that I will be making for an amendment in section 2 of the bill, Mr Chair, so I'd be happy to take your direction in terms of when you would like me to raise those questions for the record. Would you like me to hold them until we actually get to that particular amendment?

The Chair: Let's do that discussion under section 2.

Shall I put the question on section 1? I'll ask for a voice vote. I don't think we need a recorded vote, unless there's a request for it.

Shall section 1 carry? Carried.

Section 2 of this bill: I understand there are a number of amendments. Is there a motion?

1600

Mrs Molinari: I move that subsection 2(1) of the bill be amended by striking out the portion before paragraph 1 and substituting the following:

"Responsibility of establishment

"(1) No owner or operator of a horse riding establishment shall permit any rider under the age of 18 years to ride any horse boarded by the rider in the stables of the establishment or transported by the rider to the establishment unless the rider has and is correctly using the following equipment in the manner that it was designated to be used:"

The Chair: Any discussion on this amendment?

Mr Marchese: What are the changes?

Mrs Molinari: It's adding "or transported by the rider to the establishment."

Mrs Julia Munro (York North): Just for clarification, in the last part that was read to us, the wording was changed from "designed" to "designated," I believe, and I wondered if that was just an error.

The Chair: The very last part of the sentence?

Mrs Munro: Yes, the very last couple of words.

The Chair: My understanding of the last phrase is "that it was designed to be used." Is that correct?

Mrs Molinari: My apologies. It's "designed." That's the intent.

Mrs Munro: I assumed it was, but I thought I better—for the record.

Mr Marchese: You must have been a teacher in your past life.

Mrs Marland: And a good one.

The Chair: Any further discussion on this amendment? I wish to call the vote on this amendment to section 2 that is contained on page 1. Shall this amendment carry? Carried.

Further motions of amendments?

Mrs Molinari: I move that paragraph 2 of subsection 2(1) of the bill be struck out and the following substituted:

"2. Hard soled footwear with a heel of no less than 1.5 centimetres."

The Chair: Any discussion on this motion?

Mrs McLeod: I'm not going to oppose the amendment, because I think it does clear up some of the specific concerns that were raised around the original wording. I do want to just point out, however, that I think this particular section, as much as the issue around the wearing of helmets, is a reason for looking at the whole issue of the pony ride kind of thing. We did discuss this. These are not regular riders, these are not people going trekking; these are kids who come with their running shoes on and are riding a pony at the fair. So the requirement for the footwear becomes a real concern, as much as the helmets, and I just want to make that point because, when we get to the issue of whether or not there can be exclusions, I think we need to look very seriously at the restrictions this would put on pony ride operators.

Mrs Marland: Maybe someone has the answer to this question: Based on my experience with seven grandchildren at those kinds of rides, generally I have only seen ponies tethered. I haven't seen them free-riding. Often they're attached to some apparatus that leads them around. Is that the case or is my experience limited?

Mrs McLeod: Based only on my grandchildren's experience—Margaret, we're exchanging grandchildren stories here—there's a place called Puck's Farm, which is in Julia's riding. Nobody would question the establishment in any way at all, but you get on a pony there and it is led by either the operator of the farm or by a parent. So they're not actually tethered, they're not going around a circle, but it's a very controlled kind of ride.

Mr Marchese: Mr Chair, "properly fitted" was dropped. There's some agreement, obviously. Is that correct?

Mrs McLeod: Yes.

Mr Marchese: It seems reasonable, but there must have been a reason not to include it, I'm assuming.

Mrs Molinari: "Properly fitted" seemed to be redundant. I think it was actually your member who raised that as an issue: what's properly fitted? It's left to interpretation.

Mr Marchese: But it's not redundant. It may have been left to interpretation, but it's not redundant.

Mrs McLeod: I think "hard" and "smooth" were redundant.

Mr Marchese: They were contradictory, but I'm not sure they're redundant.

Anyway, as long as the member raised this issue and he is happy with it, that's fine.

Mrs Molinari: According to my recollection—I wouldn't want to accuse Mr Kormos of saying something that he didn't say—it was raised and there was agreement that this would be an amendment that would be suitable.

The Chair: Is there anything further?

Interjection.

The Chair: I don't know whether Hansard is picking up all this or not.

Is there any further discussion on this amendment?

We have an amendment by Mrs Molinari. It's on page 2. Shall I put the question?

Shall this amendment on page 2 carry? Carried.

Any further amendments to section 2?

Mr Marchese: Here's where the redundancy happens, Tina. I see the redundancy in 3, where you have "suitable" and "properly fitted." That's redundant.

Mrs Molinari: Yes, we're going to remove that.

Mr Marchese: Right, because you've got "properly fitted" already. There it is.

The Chair: I see an amendment on page 3. Does someone wish to make a motion?

Mrs Molinari: I move that paragraph 3 of subsection 2(1) of the bill be amended by striking out "Suitable."

The Chair: Any discussion on this amendment?

Mr Marchese: It's reasonable.

Interjection: Suitable.

The Chair: Any further discussion?

We have a motion from Mrs Molinari on page 3 for an amendment. Shall I put the question?

Does this amendment carry? Carried.

Are there any further motions for amendments to section 2?

Mrs Molinari: I move that section 2 of the bill be amended by adding the following subsection:

"Same

"(5) Subsections (1) and (2) do not apply to riders participating in horse shows or competitions."

The Chair: Any discussion on this particular amendment?

Mrs McLeod: I'd like to ask Mrs Molinari to give some background to tabling the amendment.

Mrs Molinari: This is the one that was raised as an issue during the hearings, during the discussion by all the members that it was covering the dressage and some of those areas of competition where riders are also judged on their appearance and on the costumes they wear. The bill was never intended to cover competition, and since it wasn't specific anywhere in the bill that it was excluding it, this amendment excludes those competitions from the bill.

Mr Marchese: Mr Kormos obviously spoke to this.

1610

Mr Bryant: I would ask Ms Molinari if you could talk a little bit about what the bill means by "riders." I think we both know what it means, but we haven't defined "riders" in the bill. I know that you mean more than just, say, equestrian—I guess—and dressage riders. Perhaps you could elaborate a bit just so there's, again, no confusion as to what we mean by "riders." You haven't defined what "riders" is in the bill. Is "riders" limited to particular types of competition? What do you mean by "riders?"

Mrs Molinari: Those riding a horse who are in a competition; a rider of a horse in a competition.

Mr Bryant: I guess we're satisfied that in the absence of any definition of "riders" there's going to be no confusion as to what this is.

The Chair: Any further discussion on this point or any other points? Mr Bryant, is that complete? Mr Marchese.

Mr Marchese: My sense, Michael, is that you don't need to define "riders" if those who are participating in horse shows would be excluded, right? It's the horse show that's relevant, so whoever is riding in a horse shown is excluded.

Mr Bryant: Riders.

Mr Marchese: Riders, in a horse show.

Mr Bryant: We'll get to the elephant, camel and pony issue in a moment.

Mrs Marland: I just wondered if I could have, Mr Bryant, a clarification of your question, not that I don't understand what a rider is. Are you understanding now, then, that the bill pertains to anyone on horseback or riders—I'm really following up on Mr Marchese's question too. Is anyone on horseback a rider? If they're not in competition or they are in competition, are they still not riders, and do we need a clearer definition of who the bill refers to?

Mr Bryant: There is a category which has been excluded and there's a very good reason for that. I think Ms Molinari has attempted to explain the reason. But at the same time we're excluding categories which are, I think, not otherwise covered under the bill. There is reference to riders in section 104.1 in section 4 of Bill 12, which refers to riders of a horse on a highway and so on. I'm not suggesting that we change this particular provision. Just so that there is no confusion in terms of the way this act is implemented, I hope that the person who sponsored the bill and sponsored the amendment could explain what the meaning of the provision is, but I take it from her response that it's apparently self-explanatory and there isn't going to be a problem.

The Chair: Any further discussion on this amendment?

Mrs McLeod: I do want to just clarify, because I know that Mr Kormos raised the issue of dressage and that's why you've gone back and looked at it. I appreciate that fact, and you've been informed that dressage was not specifically excluded from the bill. I have a little bit of a concern with the way the amendment is worded, because by saying that subsections (1) and (2) do not apply to riders participating in horse shows or competitions, it seems to have an implication that it may apply to riders generally, which I think is Ms Marland's question. In fact, the only place where the bill refers to riders is when they're riding on highways, which is what we all thought this bill was about to begin with and where there was absolutely no disagreement.

I guess, first of all, it points to the complications that can arise from something seemingly simple when it goes beyond the stated intent, which was to make sure that 18-year-olds were not riding on highways without helmets on. But I just ask, is there now a confusion about whether or not the bill would apply to riders who are not in competition, and does that broaden the definitions under section 1, which says that the bill applies only to horse

riding establishments and operators of those establishments and does not deal with riders at all?

The Chair: Any response, Ms Molinari?

Mrs Molinari: I will attempt to respond. When it was brought to my attention that there was a necessity to exclude competitions from the bill in the form of an amendment, this amendment was drafted through legislative counsel. Legislative counsel assisted in drafting the original bill, so I take their counsel on this amendment, that it would cover the intent we're trying to cover, that is, exclude competition riders from the legislation.

Mrs McLeod: It clearly does that. I wonder if we could ask counsel's view as to whether or not, by eliminating one category, excluding one category of riders, it therefore seems to indicate that other categories of riders are somehow encompassed by this bill.

Ms Susan Klein: I don't think so. It simply exempts the riders from those provisions. You're right, the provisions do not impose obligations on riders, and I suppose the more technical way to have written it would have been, "does not apply in respect of riders participating in," or, "does not apply to horse riding establishments that are conducting horse shows or competitions." I thought it was clearer to understand just to say, when we're talking about riders here—the riders don't have the obligations, the owners and operators have the obligations, but they don't have those obligations with respect to these kinds of riders. So if you're holding a competition at the Circle X ranch, which otherwise would be a horse riding establishment, for that competition they don't have the obligation on those riders.

Mrs McLeod: So there are some establishments that would have qualified under this that are now, essentially, for this purpose, being excluded.

Ms Klein: It's just carving them out from that. Nobody is brought in by this. It simply carves out from subsections (1) and (2) those particular kinds of riders who don't have to have the helmet, just the footwear.

Mrs Marland: Is there a way of clarifying this so we know that the bill is only pertaining—obviously if we're talking about establishments, we're talking about where riders are paying a fee for the opportunity to ride. Is that the only area that is defined in the bill? If indeed we're talking about horse shows—perhaps somebody has this answer, and maybe Ms Klein has it—do we know that in horse shows everybody owns the horse that they're using, or might there be examples of where people have horses at horse shows on which people under 18, young people, can compete? They are in a horse show but they are using somebody else's horse.

I think the direction of this bill is excellent and I think it's important to make sure that, when we're through with the amendments, it isn't a bill that is difficult for people to understand. I guess the neat thing about being subbed into a committee is that obviously, because I haven't been involved in this, I'm hearing some things for the first time and frankly I'm being very open about the fact that some of it isn't clear and some of it is open for the

potential of being contradictory unless we clarify it and nail it down.

I think if it's nailed down that horse shows—for all I know, and maybe you know: do horse shows set their own rules for competition? Do they allow commercial owners, Tina, into horse shows, where other people's horses are used and therefore it's the same as if you're at the country fair?

Mr Marchese: Margaret, maybe we have some experts in the audience.

1620

Mrs Marland: Well, there will be different kinds of businesses. That points up the fact, frankly, that we need to cover all those different arrangements if we're really going to succeed in protecting the young riders. I'm 100% supportive of protecting these young riders, I just want to make sure that when we have this opportunity to do that, we know it will work for all kinds of riders.

Mrs Molinari: I'm sensitive to my colleague's comments. I'm sure when you don't have the benefit of having been part of all of the hearings, it's difficult to be here and try and pick up where we've all been. There were presentations to this committee. We had hearings where some of the experts were here and responded to some of the questions.

Mr Chair, as a matter of fact, one of the presenters is here today. With your permission, we would ask her to answer some of the technical questions. I believe the answer to the question is that it varies from establishment to establishment, but if there are some questions the member needs to get a comfort level on, Marcia is here and I hope would be willing to answer some of the questions.

The Chair: Would the committee be amenable to very briefly recalling one of our previous witnesses?

Mr Marchese: Does that include a horse riding establishment individual? Is that what we're talking about?

Mrs Molinari: Yes.

Mr Marchese: There are a number of people back there, right? Who are we talking about here?

Mrs Molinari: The one who would be able to respond to the question that's being asked. I believe Marcia Barrett would—

The Chair: Mr DeFaria, any comment on that?

Mr Carl DeFaria (Mississauga East): Mr Chair, this is clause-by-clause. What we could do is have a short recess and have this done by the member directly with the people, instead of going back into hearings again.

Mr Bryant: Just to respond to that, the point of this exercise, at least from my perspective, in terms of trying to get some explanations on the record, is that they be on the record. The reason defining this issue of competition is important is because, as the government knows, there is an Olympic bid. The Olympic bid includes the argument that we have our act together here and, among other things, we're not going to create laws that are going to make it impossible, for example, for dressage competitors to compete in the Olympics, because in dressage

they are not going to wear the helmet. So we want to make sure we get the competition part right.

I would think that having an off-the-record conversation would defeat that purpose. If we are very clear as to what it means and we explain on the record what it means, then I think it means that nobody can make any objection as to what precisely the meaning is. As you know very well, it's not going to be definitive just because we've defined it here in this committee. But I would say either we're going to address the matter on the record or we're not, or there's no point in doing it, unless we want to have the members come back and repeat what was just explained to us.

I don't see any problem with having someone who has some expertise in this issue address that particular clause. At the same time, I'm sensitive to Ms Molinari's concerns that we move ahead with this bill.

Mr Marchese: But Mr DeFaria raised a good point. Rather than opening it up for hearings again, if the government needs to get some clarification, then you move a recess for five minutes or so and that should do it. Then you will feel better about whatever it is you want to put on the public record.

Mrs Marland: I agree with Mr Bryant. We're not going through hearings again.

Interjection.

Mrs Marland: No, excuse me, I heard Ms Molinari say that someone in the room can give us some clarification to the points that have been raised, and that's all we need. I don't know whether we have staff or the public, but if there's somebody in the room who can answer the questions that have been raised, I think it's helpful to have it defined.

Mr Marchese: But I think Mr DeFaria is correct. We don't tend to do that, in terms of asking for clarification from someone in the public, so if you want to recess for a few moments, that would be appropriate, I think, right?

Mrs Marland: But with respect, we don't tend to go through amendments and not have it confirmed what exactly the amendment is saying.

Mr Marchese: I'm not sure about that.

Mrs McLeod: That would be a perfect world.

Mr Marchese: Yes. Often it could be raised and we're not given that opportunity usually. Why don't we just recess for a few minutes? Don't you want to do that? We're wasting a whole lot of time.

The Chair: I'm going to call a five-minute recess.

The committee recessed from 1625 to 1634.

The Chair: Could we continue with any further discussion on this particular amendment to section 2.

Mr Peter Kormos (Niagara Centre): Excuse me, Chair, that is amendment number?

The Chair: This is found on page 4.

Mr Kormos: I appreciate this amendment. Horse shows are competitions. I appreciate the intent of it. It's reasonably broad-based and I suppose that's a good thing. But it concerns me that the government—because it is a government motion, I believe; am I correct?—can come up with this amendment but it can't come up with

an amendment that excludes pony rides and incidental boarding at stables. This is really problematic.

Look, Ms Molinari has tried her best, and I spoke with her very quickly before we came in here. Unless and until somebody can commit this government to regulations which are going to exclude the mom-and-pop pony operators, and which are going to deal with what I call the incidental stable owners—and you know what I mean. I mean somebody other than a full-fledged commercial stable or, more importantly, somebody other than a riding range—no, not a riding range. What do they call these, where you go and rent a horse to ride around, where it's not your horse?

I think maybe that's the distinction. When people are on their horses it should be their responsibility regarding a helmet. When I'm on somebody else's horse that I am renting, then I appreciate there can be some onus on the person who is renting me the horse to make sure I wear a helmet. But heck, if I'm riding my own horse, granted I'm well over 18, but if I'm 17 and I'm riding my own horse, or one of my parents' horses, the person who boards that horse is on the hook, and I don't believe that's what was originally contemplated, neither by the coroner's jury nor Mrs Molinari when she initially moved the bill.

It has to do with commercial riding stables. That's what they're called, commercial riding stables. The bill's intention is good. The bill should pass. Like everybody else here—Mr Bryant and Mrs McLeod and I'm sure all the Conservative members—I do not want to see young people out on horses rented at riding stables not wearing helmets this summer, for Pete's sake. Obviously we're into the season; I presume we're into the season. I do not want to see that happen, but it's going to be very difficult. I'm not going to jeopardize the Careys and their livelihood, or the Atkinses down in St Anns, Ontario, and their livelihood, because of the inability of the government to come up with some adequate amendments.

I can't blame Mrs Molinari, because I think she did her best, but somebody in the government has failed her dramatically. I don't blame Mrs Molinari at all, but she got failed by somebody in the bureaucracy somewhere. Everybody knew what the issues were. The government House leader's office knew what the issues were and what the concerns were, and I don't think I'm unfair in suggesting that Mrs Molinari was sensitive to those issues. Mrs Molinari appeared to understand the concerns that were raised about the mom-and-pop pony operators, the non-commercial stables and certainly the dressage horse shows or competitions. I hope that will include dressage and similar things.

But heck, we've got to have somebody here who can speak for the government, I say to the Vice-Chair, I say to the members of the committee, I say to the parliamentary assistant. I don't think that's an unreasonable request. Don't do it for the opposition members. We want this bill to pass. We want people under 18 who rent horses at riding stables to be wearing helmets, and I agree

that the gist of the bill will achieve that, but my goodness, we don't want to put the Careys out of business.

Since these committee hearings, I have had a chance to sit and talk to them a couple of times. These people are the salt of the earth. These people have worked hard all their lives and they're not 30 any more—I don't think they'd mind me saying that—just like the Atkinses, down in St Anns, in Niagara region. Do you know what they own? They own their little piece of land and some ponies. That's it. That's their life history. They're not making big bucks by any stretch of the imagination, but they're making money, they're paying taxes and they're honest, straight people. I'm confident all of you share that view with me. I don't want these people getting busted because on their little ponies—heck, I don't even know how many feet high they are; three and a half feet high on a good day, I suppose, and I don't know how many hands. I don't want them getting busted and fined because of a kid who is propped up on one of these ponies, where the kid is almost—I've seen these pony operators. The pony operator's one hand is around the back end of the kid and the other hand, in most cases, is leading the horse by the bridle or, in the case of the Careys, the horse is attached to a little mini-carousel so the horse can't wander off or go anywhere it isn't supposed to. This is not the intent of the bill.

I tell you, Chair, I'm going to be asking, as is my right, when the vote is called, for a 20-minute recess.

1640

The Chair: Further to your discussion, did you wish to ask one of the ministry staff to come forward? Did you have a question for government—

Mr Kormos: Please. How many of them are here? Everybody's here. I'd like somebody to explain why we can come up with an amendment for the dressage issue, to whit, riders participating in horse shows or competitions, but we couldn't come up with a simple amendment to address the mom and pop, the Careys, or the Atkinses down in St Anns, and their small investments, their lifetime of work. These aren't young folks any more. They're not going to go out there and start all over again. This is it for them. You shut them down and this is it. So, come on, let's have the ministry staff up here responding to that question. I pose it in sincerity.

The Chair: Further to that, could I ask ministry staff to join us?

Mrs Munro: Excuse me, Mr Chair, the staff who are here are Ministry of Transportation staff. We're here to speak to the two MTO amendments.

Mr Kormos: My apologies. The parliamentary assistant is quite right. I don't have any quarrel with the Ministry of Transportation end of this. I haven't heard any concern about people under 18 riding horses on highways wearing helmets. But you see, Mr Carey is never on a highway with his little three-foot-high pony. So my apologies. It's unfair to ask the staff that.

Mrs Marland: Mr Kormos, you said when it comes to the vote, you'd be asking for a 20-minute recess. Do you

not have a full complement of members at the moment, or are there two? Are there two NDP members?

Interjection.

Mrs Marland: What does he mean by that? Mr Kormos, you said when it comes to voting that you will be asking for a 20-minute recess.

Mr Kormos: Yes.

Mrs Marland: What standing order will you be using for that?

Mr Kormos: It's in there. But perhaps we might have a five-minute recess now, with unanimous consent? I know you—

Mrs Marland: No, no, just a second. We just had a five-minute recess, with respect, before you came in. I think we need to move forward one way or another. Normally, a 20-minute recess in the standing orders is requested in order to get our members in to vote. I know from 10 years in opposition. But we have the full complement now, I think, of opposition members, don't we?

Mr Kormos: Let's just carry on. The clerk is checking.

Mrs McLeod: My understanding is we're still on amendment 4, which I believe is the one—Mr Kormos quite rightly had me raise the concern about dressage, and we had some discussion on that before Mr Kormos returned.

I have some really significant concerns that I wanted to speak to in moving the motion that comes next, which is my motion on the regulation issue. If we're going to be taking recesses, perhaps I could table my questions now so that we could achieve some progress in dealing with all the questions with one recess, so we don't come back to deal with motion 5 and end up with another recess. Shall I proceed to ask my questions and make them now, retroactive, in response to Mrs Molinari's opening comments?

The Chair: I think I should check with the clerk because you're suggesting we leave—

Mrs McLeod: I think Mr Kormos is raising a number of questions that may not be as directly related to the amendment that's before us as they are to the amendment which is to come next. I'm not sure whether Mr Kormos would like to move on to amendment number 5 and then have a whole series—

Mr Kormos: OK. No quarrel. In any event, since Tony Martin was substituted for me, I can't vote on this committee anyway, even though I'm a regular member of the committee.

Mrs McLeod: Who is Rosario substituting for?

Mr Kormos: Rosario is substituting for Tony Martin. Was he voting?

Mrs McLeod: Not yet.

The Chair: Mrs McLeod is suggesting we stand down the motion on page 4 and go on to the motion on page 5. We would need unanimous consent to move forward.

Mrs Molinari: There are still concerns on motion 4.

The Chair: We would come back to motion 4.

Mrs McLeod: I'm not asking to stand down motion 4. I thought there was probably agreement around the

amendment on page 4 and we could move to the amendment on page 5, where I think Mr Kormos's questions have been really directed.

The Chair: I might have missed that. You're suggesting I call the vote on this amendment?

Mrs McLeod: Yes.

The Chair: OK. I so notify the committee. I wish to call the vote on the amendment on page 4, to amend this motion. I'll call the vote. Shall this amendment carry? Carried.

We have a further motion.

Mrs McLeod: I move that section 2 of the bill be amended by adding the following subsection:

"Regulations

"(5) The Lieutenant Governor in Council may make regulations,

"(a) exempting from any requirement of this section,

"(i) any class of owners or operators of horse riding establishments, or

"(ii) any class of horse riding establishments; and

"(b) prescribing conditions for the exemptions."

Those of you who were here at our last meeting will recall that I put forward this motion as a way to try and move the bill forward, recognizing the fact, as Mr Kormos has also said, that all of us believe that the intent of the bill is one of protecting young people and that we don't want to see that intent impeded. But we have concerns over a number of issues that I think came as somewhat of a surprise to all of us around this table in terms of who gets caught under "horse riding establishment" and those who are boarding horses.

There are three specific groups that have been identified, one being the pony rides, the second being the establishments that board horses but aren't responsible—those are private arrangements; they're not responsible for hiring the horses out—and the third being those who are riding in dressage, and we've just had the discussion about that and the amendment passed to exclude that. But as Mr Kormos noted earlier, although an amendment has been brought forward by Mrs Molinari to deal with the performance issues, there has been no specific amendment brought forward to deal with either the pony rides or those who board horses and are not hiring the horses out. I'm concerned about the fact that we've had an amendment that deals with only one part of this bill, and I'll wait perhaps until Mrs Molinari is able to respond.

The Chair: Thank you. We'll—

Mrs McLeod: May I just pose my question to Mrs Molinari? I was addressing the fact that in the course of our day's hearings we heard three specific concerns: the pony rides, the establishments that board horses but don't actually hire them out and those who are riding horses in dressage, and we've had the discussion and the amendment on the dressage issue. When I moved this motion it was to attempt to ensure that the bill could go forward, and I acknowledged I was putting it forward in good faith that the government shared the concerns that were being expressed around the table. My faith has been

somewhat eroded today in a couple of ways, because we've had an amendment dealing with one of those three areas but we don't have an amendment dealing with the other two areas. For me to proceed with this motion, it would be very important to know and to have on record whether or not the government is prepared to look at the issue of pony rides and those who board horses, even though no amendments came forward today. That's my first question and concern.

The second concern that I have is a straightforward question as to why there were no amendments on these two areas, as opposed to just the performance area today.

1650

The third is that if this amendment proceeds—and I believe, as the mover of the motion, I could withdraw the motion—my concern now is that I don't have any idea who is responsible for even making recommendations to the Lieutenant Governor in Council. I'm a little bit concerned that a motion that's been put forward in good faith in order to move forward a private member's bill may be being supported only as a way of getting rid of the concerns, with no intention or no capability of government to deal with it. We've had it clearly recognized that the Ministry of Transportation, which is the only ministry participating and providing advice to this committee on this bill, is here specifically and understandably because of the clause that deals with highways. They have said they're not involved in any of the rest of this bill.

We asked at both of our last meetings for information as to what other ministries would be affected by the bill, would have some say in the bill and presumably would have some future responsibility in the bill. All we've had is a limited succession, mostly saying, "It's not ours. We have nothing to do with it." So I don't know who this bill is going to be directed to in order to make regulations. That, I believe, has to be clarified before this motion can proceed.

I'm willing to proceed with the motion, I'd like to see the bill go ahead, but I'm not prepared to put forward a motion that's not truly being supported in the good faith with which it was originally tabled. For me to know that, I need to know whether there's a serious willingness to look at these two issues that have been raised and not addressed, why the two issues were not addressed in an amendment, along with the amendment put forward today, and thirdly, if the motion proceeds and there is an act of faith for government to deal with these issues, who is responsible and will make recommendations to the Lieutenant Governor. Failing responses to those questions—I'm not intending to delay but I think they're reasonable questions and I'm not prepared to proceed with the motion until I have some response to that.

Mrs Molinari: I'd like to make a suggestion. I am sensitive to the comments about how to ensure that regulations will in fact be in place to cover some of the issues that have been raised. I'd like to suggest that we go with the other amendments—I'm not sure this is the wording—from the government, the Ministry of

Transportation amendments, and not conclude the full amendments at this time until I can respond to some of the concerns that have been raised. So we will keep this Liberal amendment to a future time when I can address some of the concerns. But in the meantime, I think the ones that are here are pretty much straightforward and we might be able to pass these. Then we can come back and only have to deal with the Liberal amendment that has to do with regulations. Hopefully at that point in time we'll be able to have some responses to some of the concerns.

Mrs McLeod: Those responses would be forthcoming before we actually took a final clause-by-clause vote?

The Chair: That would be my understanding.

Mrs McLeod: I appreciate that and I'm quite happy with that. Thank you.

The Chair: I think we're assuming discussion on another day on this clause?

Mrs Molinari: We will have to, Mr Chair, because I will need to endeavour to discover which ministry will be taking responsibility for seeing this through and the regulations.

The Chair: I would ask, then, for unanimous consent to stand down this motion.

Mrs Marland: Are we standing down the whole bill?

The Chair: No, just this motion. Do we have a subsequent motion?

Mrs Molinari: Could we continue with the rest of the amendments, so that when we come back we will only have the Liberal amendment to address? This is the one that raises a number of concerns and questions that need to be responded to before the committee is comfortable with proceeding.

The Chair: Yes. So we are essentially standing down this amendment to section 2.

Are there any further amendments to section 2? Seeing none, we go on to section 3.

Are there any amendments to section 3? Seeing none, I wish to put the question with respect to section 3. Shall section 3 carry? Carried.

Section 4:

I open up for discussion on section 4 or motions for amendments.

Mrs Molinari: I will put the amendment forward and the parliamentary assistant for transportation will address any questions and speak on the amendments.

I move that paragraphs 1 and 2 of subsection 104.1(1) of the Highway Traffic Act, as set out in section 4 of the bill, be struck out and the following substituted:

"1. A helmet that complies with the requirements under the Horse Riding Safety Act, 2001.

"2. Footwear that complies with the requirements under the Horse Riding Safety Act, 2001."

The Chair: Thank you for that motion. Discussion on this amendment?

Mrs McLeod: I appreciate the fact that the amendment removes some of the concerns about the specificity of using the American society's model, the British model, but I think it begs the same question as I raised about my own motion, and that is, who is now

responsible for determining what the requirements are under the Horse Riding Safety Act, 2001? As I understand it, we may have just struck out the requirements.

The requirements that are there in 2(1): as worded, the amendment doesn't refer back to those, and those requirements don't apply to riders, as we determined earlier.

Mrs Munro: Mr Chair, if I might just respond.

The comment that you made secondly, I'm not sure. The first, section 2 of the bill, point 1, does outline those requirements. We did amend point 2, which is the footwear, but the helmet part is still standing. So in this point it's just to remove the references in the Highway Traffic Act and simply refer to them by the way in which they are described in this bill. They're described in the bill in section 2.

Mrs McLeod: The immediate problem with wording, just in terms of clarity: I think what's intended—I don't want to put legislative counsel under the gun here. But then we're now talking about a helmet that complies with requirements outlined—my problem is, we've just had a long discussion about the fact that section 2 of the bill doesn't deal with individual riders; it deals with establishments and operators of establishments. So how clear is it that in striking out the specific requirements for riders riding on highways—if the wording is clear, I'll set it aside. It just sounded to me as though under this section it might be anticipated that there were going to be new requirements developed under this act to apply to riders on highways.

Mrs Munro: Mr Chair, if I might just respond to that. There is the notion, and we heard this by one of the presenters a couple of weeks ago when asked, had helmet design changed over the 20 years or so that he had been involved, and he said yes—the intent here is certainly, as you mentioned, to be able to provide an opportunity to respond to new, safer riding helmets and footwear. The reason for that would be that you wouldn't have to then make amendments in the Highway Traffic Act to go along with the changes that would come along should there be changes in the safety requirements.

1700

Mrs McLeod: How does the wording that was originally in the bill under 104.1 differ from the requirements under 2(1)?

Mrs Munro: I believe it's the same.

The Chair: Mrs Molinari, do you want to—

Mrs Molinari: I might be able to help here. What this says is that the actual American Society for Testing and Materials and the British Standards Institution, which are the specific brands of the helmet, are covered in section 2. This basically says that it meets with the requirement under the Horse Riding Safety Act, which means it's already covered in section 2 of the act. So it's being repeated here. My understanding is that the Ministry of Transportation felt it needed just a line saying that it complies with the act, which is already stated in the previous section, so it didn't need to be repeated here.

Mrs McLeod: For the sake of clarity, I would have preferred to see it repeated and amended in the way in which 2(1) was amended, but that's fine.

The Chair: There's one issue I would like to raise. We have one amendment that has been stood down for further information. Depending on what is discovered with respect to that amendment, does that affect the rest of this bill? I guess I'm questioning how much further we should go with this. Is there a change that may occur there that would cause changes in other sections of this legislation?

Mrs McLeod: I think it would have if the answer to my last question was different, but I think as it stands, probably the only section where we need to have a ministry identified as responsible is for the referral for regulatory changes.

The Chair: Mrs Molinari, did you have a comment on that?

Mrs Molinari: Just to say that I don't think we need to discontinue dealing with the rest of the amendments. I think we can continue with these amendments even though we stood down the previous one.

The Chair: Any further discussion on this amendment to section 4? OK. Committee, I will put the question to section 4. Shall this amendment to section 4 carry? Carried.

Any further amendments?

Mrs Molinari: Mr Chair, I would like to withdraw the amendment listed on page 7 because of the previous amendment that just carried. There's no need for this amendment at this time.

The Chair: With respect to section 4, any further amendments?

Mrs Molinari: I move that section 104.1 of the Highway Traffic Act, as set out in section 4 of the bill, be amended by adding the following subsection:

"Rider to identify self

"(4) A police officer who finds any person contravening subsection (1) may require that person to stop and to provide identification for himself or herself.

"Same

"(5) Every person who is required to stop by a police officer acting under subsection (4), shall stop and identify himself or herself to the police officer.

"Same

"(6) For the purposes of this section, giving one's correct name and address is sufficient identification.

"Same

"(7) A police officer may arrest without warrant any person who does not comply with subsection (5)."

The Chair: We have an amendment, page 8, to section 4. Any discussion on this amendment?

Mr Bryant: Just a question. I presume there is a search and seizure involved in this, that police are stopping people and asking them for questions and arresting them. This, I presume, has gone through the charter of police and the ministry and this is pretty standard?

Mrs Munro: Yes, it is. The amendment obviously ensures that police can effectively enforce the provisions of the bill and it parallels the existing requirement in the Highway Traffic Act.

The Chair: Any further discussion on this amendment? Shall I put the question? Shall this amendment on page 8 to section 4 carry? Carried.

Any further amendments to section 4? Seeing none, shall section 4, as amended, carry? Carried.

Moving on to section 5: are there any motions for amendments to section 5?

Mrs Molinari: I move that section 5 of the bill—
Interjection.

Mrs Molinari: My understanding is that we're withdrawing this last amendment.

The Chair: OK. With respect to section 5, are there any further amendments?

Mrs McLeod: I would ask that this section also be set down until we can get the responses for regulatory changes. Depending on the answer we get on whether or not there are to be exemptions made through regulation, I think, assuming that the government were to call this bill for third reading and proclaim it, the 90 days might be too limiting in terms of regulatory changes.

I appreciate the fact that section 4 in the amendment was to have been separated out so that the issue of riders under 18 riding on the highways could come into effect immediately, but I also understand that because she made the amendment that makes section 4 dependent upon section 2, we can't really do section 4 separately, which is why I would have supported the amendment she withdrew.

All that being said, I would just suggest you stand it down until we know what our timelines are likely to look like.

The Chair: We have a suggestion to stand down section 5.

Mrs Molinari: Just a question, and that's with the possibility of returning it as an amendment.

Mrs McLeod: I just think that once we get the clarification on regulatory changes and who's responsible, we might have a better sense of whether 90 days is an appropriate timeline. You might want to, in the meantime, revisit—I don't whether you can even do that—the amendment. If you were to have included—instead of worrying about duplication of print—the regulations under section 4, then your amendment that would have had section 4 come into force immediately would have been in order and that part of the bill could have proceeded quickly. I'm not sure if you want to just pull back and leave it at that.

The Chair: So we're not withdrawing section 5; we're standing it down. I would have to ask for unanimous consent to stand down section 5 for a future date. Agreed? Agreed.

In my opinion, I don't think we can continue with further business. We should continue with the title, but we certainly cannot pass the rest of the complete legislation.

Any further discussion before I draw this meeting to a close?

Mrs Molinari: Just a question. What are the timelines to come back? This committee is meeting again tomorrow with government business, Bill 58. So we would set a date for a future meeting to continue with this bill?

The Chair: With respect to your question, we can also touch base with members and get back to you on that.

Any further business or any further discussion?

Mrs Molinari: So we're going to touch base with members to get back to me on whether or not this bill is going to be discussed again in the next couple of days?

The Chair: When the best timeline is to reconvene.

Mrs Molinari: OK. There is a general commitment of the committee that we reconvene within the next short while, before we recess?

Mr Bryant: Just to confirm Mrs Molinari's desire, we in the opposition certainly want this bill to pass as soon as possible. We need to have Mrs McLeod's concerns addressed. The subcommittee needs to meet in order to

set a date so that we can get this on before the recess; then we will do that. I think it's really going to be up to the government House leader as to the timeline, but of course the subcommittee will meet and set a date so that we can come back, if need be, next Monday.

The Chair: I would think next Monday.

Mrs Marland: The point Mr Bryant has just made was the point I was going to make. I think that before this meeting adjourns, there should be a request or a motion from a member of the subcommittee requesting the House leaders to agree to schedule this committee for next week to proceed. Otherwise, if it's not scheduled now and if it's not perceived as being within the domain of the Chair to call a meeting, then we need to have it confirmed that there will be a request to the House leaders to have a meeting.

The Chair: Thank you, Mrs Marland. As Chair I see this committee meeting next Monday, unless there is emergent business that we're not aware of.

Further discussion? I declare this meeting adjourned.

The committee adjourned at 1712.

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Tuesday 19 June 2001

Journal des débats (Hansard)

Mardi 19 juin 2001

**Standing committee on
justice and social policy**

**Comité permanent de la
justice et des affaires sociales**

**Ambulance Services Collective
Bargaining Act, 2001**

**Loi de 2001
sur la négociation collective
dans les services d'ambulance**

Chair: Toby Barrett
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICYCOMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Tuesday 19 June 2001

Mardi 19 juin 2001

*The committee met at 1010 in room 151.*AMBULANCE SERVICES COLLECTIVE
BARGAINING ACT, 2001

LOI DE 2001

SUR LA NÉGOCIATION COLLECTIVE
DANS LES SERVICES D'AMBULANCE

Consideration of Bill 58, An Act to ensure the provision of essential ambulance services in the event of a strike or lock-out of ambulance workers / Projet de loi 58, Loi visant à assurer la fourniture des services d'ambulance essentiels dans l'éventualité d'une grève ou d'un lock-out de préposés aux services d'ambulance.

The Chair (Mr Toby Barrett): Good morning, everyone. Welcome to this regular meeting of the standing committee on justice and social policy for today, Tuesday, June 19, 2001.

Our agenda for today: we're dealing with Bill 58, An Act to ensure the provision of essential ambulance services in the event of a strike or lock-out of ambulance workers. We're dealing with clause-by-clause consideration of the bill.

In the meeting of this committee yesterday afternoon, I received advice on two areas.

Mr Dominic Agostino (Hamilton East): Mr Chair, before we start, we're starting with the process, but I'm a little confused as to what's going on here, because we don't have copies of the government amendments or the other parties' amendments. It's difficult to start and be specific on the amendments since we have not seen them yet.

The Chair: OK, I was just going to address that, Mr Agostino. I received advice from committee members yesterday on two issues. One issue was when the committee wished to start today, and second, advice on the deadline for amendments. The deadline for amendments was set at 10 am this morning. I'd ask committee members to please bear with the clerk and staff. They do need a bit of time to photocopy them and to collate them for the members. So the deadline for amendments was 10 am. They will be forthcoming. Second, I received advice from the committee on the specific time to begin this morning. Consensus seemed to be to begin this committee at 10 am and I know there may have been a question of why this committee is meeting at 10 o'clock in the morning. I know there's caucus for at least two,

probably three, parties, as I recall. Just to better explain, because there may be some people who have been subbed in, I will quote from the resolution put forward by Minister Ecker in the House. I will quote in part:

"That the standing committee on justice and social policy shall be authorized to meet at Queen's Park on Tuesday, June 19, 2001, for clause-by-clause consideration of the bill, and that in addition to its regularly scheduled meeting time, the committee be authorized to meet in the morning but not during routine proceedings, and that the committee be authorized to meet beyond its normal hour of adjournment, until completion of clause-by-clause consideration; and

"That at 4:30 pm on that day those amendments which have not been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. Any division required shall be deferred until all remaining questions have been put and taken in succession with one 20-minute waiting period allowed pursuant to standing order 127(a)."

I just wanted to read that into the record and make sure everybody understood why we're meeting this morning and that this is time-allocated.

I understand everyone has the amendments now.

Mr Peter Kormos (Niagara Centre): On a point of order, please, Mr Chairman: I seek unanimous consent that we spend an hour this morning hearing from deputants who may wish to give evidence regarding the impact of this bill on their day-to-day working lives, to wit paramedics.

The Chair: Thank you, Mr Kormos. From the order of the House, this committee meeting is designated strictly and solely for clause-by-clause.

Mr Kormos: But I seek unanimous consent.

Interjections.

The Chair: I do not hear unanimous consent.

What I wish to do at this point, then, as we walk through clause-by-clause consideration of the bill, is turn to section 1 of the legislation. Any call for any discussion or comments on section 1? Mr Kormos.

Mr Kormos: You are now, I trust, proceeding with, literally, clause-by-clause consideration of the bill?

The Chair: That's my understanding.

Mr Kormos: OK, with respect to section 1, I want this committee to understand very, very clearly that the New Democratic Party, me here speaking for them, finds no part of this bill acceptable, finds the bill objectionable. We regard this bill as a very targeted attack, firstly on paramedics and their collective bargaining rights.

We agree with the analysis and the positions taken by the collective bargaining units of paramedics, and that is to say OPSEU, the Ontario Public Service Employees Union, CUPE, the Canadian Union of Public Employees, and SEIU, the Service Employees International Union.

We find the effective—because that's what happens in this bill: there's an effective denial of the right to strike, because what happens is that there is a threshold of essential workers that will inevitably be so high that it denies any effective strike power to the paramedics affected. The paramedics affected are the ones in the municipal sector. I should also note that this bill will create three regimes for paramedics: the crown employees' regime; the HLDAA, the hospital labour disputes regime; and now this third regime.

We're fearful of the bill because, among other things, we believe it sets the new target for the so-called arbitration alternative to the right to strike. I want to make it clear that paramedics, like the ones who are here and like the ones who were here at Queen's Park last Thursday, have demonstrated incredibly high levels of responsibility during the course of their labour negotiations with their employers historically. I defy the government or any of its members to identify a single instance in which any member of the public suffered as a result of the collective bargaining efforts or strategies or tactics of paramedics.

Indeed, paramedics have demonstrated an interest in and a capacity to negotiate effectively the essential services agreements, and it's the New Democratic Party's position that, yes—and we recognize the important role that paramedics play. Paramedics recognize that role more so than anybody. We believe, first of all, that essential services determinations are ones that should be negotiated between workers like paramedics and their employers, municipalities. Paramedics have demonstrated an ability to do that. The city of Toronto is one of the illustrations of that, where paramedics have maintained service notwithstanding that that municipal sector from time to time has had to take strike action or, at the very least, have a strike vote to give it leverage at the bargaining table.

So we find it repugnant that paramedics who have demonstrated an eagerness and a capacity to negotiate essential services agreements with their employers are now effectively being denied that right. They're having imposed on them a threshold which effectively eliminates any strike power.

The historical and fair alternative to the power to strike, or the right to strike—and you folks know I think that's a very important fundamental right, and I recognize essential workers and the need for classifications of essential workers, but the right to strike is a very fundamental right, the right to withdraw your labour.

The historical alternative to the right to strike has been arbitration. Some of you folks were here in 1991, when the Arbitration Act was rewritten, effectively, here in the province of Ontario. It was part of a harmonization process with other jurisdictions, and it was the incorporation of a whole lot of case law and precedent. I, for one, am very pleased and proud of Ontario's Arbitration Act, 1991. It codifies literally centuries of arbitration case law, common law and procedure. Among other things, it sanctifies, beginning with Scott and Avery, the clear bases for arbitration that cannot be negotiated away, even on the consent of the parties to arbitration. That's the core of our Arbitration Act. The Arbitration Act is extremely flexible, because other than those core issues—natural justice, equity, Scott v Avery—parties are free, under the Ontario Arbitration Act, on consent, to agree to all sorts of flexibility in the process of arbitration. That's the beauty of the Arbitration Act.

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One of the fundamentals of arbitration is that both parties agree upon an arbitrator. It's critical. Arbitration is based on the neutrality of the arbitrator, the lack of bias, not only real but perceived. There are folks here who are lawyers who could develop on that principle at length, I'm sure, for far longer than the time allocation motion has given us.

This bill rewrites arbitration law in the province of Ontario. It does it in a very, very fundamental way: the imposition of an arbitrator who isn't mutually agreeable to both parties; giving the arbitrator the power to determine the process, notwithstanding that both parties to the arbitration may have their own view of what an appropriate process would be. Again, that's incredibly important.

Arbitration has worked well. Let's understand that. Arbitration has worked well for any number of scenarios. I mean its origins, its roots, as you know, are in commercial law, going back to Great Britain in the 17th century, if I'm not mistaken about that. Again, lawyers with more experience in that than I have could elaborate on that. But interest-based arbitration has become an integral part of labour relations and a very incredibly effective part.

Paramedics and their supporters, their advocates, have pointed out that essential services like firefighters and police officers have, in lieu of their prohibition on strike action, access to a traditional arbitration regime. I understand entirely paramedics' concerns that they're being targeted for special treatment when they don't have access to that same arbitration regime. I suppose we'll get more specifically dealing with the issue of arbitration when we approach those sections, and there are amendments, both Liberal and NDP amendments, that speak very much to the issue of arbitration.

I just want to make it very clear that we have no sympathy for this legislation. I have some great trepidation about this legislation, because I don't think it's going to end with paramedics. I suspect the rewritten arbitration regime is going to be expanded to include other similar public sector workers. I say that police officers in this

province should be very fearful; I say that firefighters should be very fearful, because what we see here effectively in the arbitration sections could be the new model, the new standard for even their arbitration.

I quarrel with critics who chastised paramedics for coming here last Thursday. Paramedics, as is common knowledge, engaged in a noisy but peaceful and lawful protest here last Thursday. I want you to know that Brian O'Keefe from CUPE was finally granted a meeting with the Minister of Labour yesterday. I think paramedics who were here—and again, there were no arrests last Thursday—were clearly in protest. It was clearly an effort by paramedics to draw attention to their plight. You'll notice that, again, papers from the *Toronto Sun* onward expressed sympathy for the plight of the paramedics. You started to see newspaper articles which understood the impact of this legislation.

Brian O'Keefe, secretary-treasurer of CUPE, among others, had a meeting, I'm advised, with the Minister of Labour yesterday. This was the first opportunity they had to deal directly with the minister. I regret that we cannot have, that the time allocation motion does not provide for, paramedics from all three collective bargaining units or organizations, their leaders, their counsel—we had a lawyer here yesterday from Sack Goldblatt who provided a thorough analysis of the bill—to address this bill, because I suspect that committee members, and not just opposition members but government members as well, based on their own experience in their own communities and based upon their own relationships with paramedics, would find some great sympathy with the arguments that have been advanced, amongst others and most recently by the law firm Sack Goldblatt, as critiques of this bill.

I'm saddened by the fact that these paramedics have not been given standing at this committee and that their representatives haven't. I am pleased that they utilized their right of access to this building last week to draw attention to the concerns that they legitimately have, not only for themselves but for other public sector workers.

No, the New Democrats do not support this bill. We don't support section 1, we don't support section 2, we don't support section 3, on and on down the road.

Hon Chris Stockwell (Minister of Labour): The title?

Mr Kormos: The title is repugnant as well, because paramedics have indicated their capacity to establish levels of essential services through the process of negotiation and agreement.

The Chair: Thank you, Mr Kormos. Mr Agostino?

Mr Agostino: First of all, let me make it very clear that the official opposition believes that this bill should be scrapped outright. What we have done today is propose some amendments that will make it a little more bearable if the government sees, in a non-partisan way, an opportunity to really help the situation. But clearly, those amendments we have proposed, short of scrapping the bill, will still not fix the situation from our perspective.

When you look at the bill, it's a bad piece of legislation. It was done—let's make it clear—without any

public hearings. As Mr Kormos mentioned, there was a meeting yesterday—a little late in the process. Those meetings should have occurred before this bill was put together. There should have been an opportunity for public hearings. Paramedics should have been given the opportunity to come here, to talk to this committee, to explain what they saw as the problems with this piece of legislation.

I think what is in front of us today devalues and demeans the work that paramedics do in the province of Ontario. We believe very clearly that paramedics are as essential as firefighters and police officers in the duties they carry out on behalf of the public in this province. I don't think anybody on the government side of the House, if you took away your speaking points and spoke from the heart about the work paramedics do, would argue with the fact that their work is as essential as police officers and firefighters.

If you're in a car accident, the work of paramedics will often make the difference between life and death or the seriousness of the impact and injuries you have. If you suffer a heart attack or one of your loved ones suffers a heart attack, there is nothing more essential at that point to the public, to that family, to that individual, than paramedics—absolutely nothing more essential than paramedics.

So no one would argue that they're not an essential service. But what you have done with this piece of legislation is you've sort of given the right to strike but not really given the right to strike. You talked about replacement workers for paramedics, like suggesting that you can replace a driver of an ambulance with a truck driver and that work would be done, not taking into account the expertise. Where do you find these so-called replacement workers that have the expertise, the skills and the professionalism, as you have a shortage of paramedics in Ontario? And this bill will drive them further out of the province, let me tell you, because working conditions will become more difficult, their work has been devalued and their ability to access a fair process for arbitration and collective bargaining has been hindered tremendously.

As many members have said in the House—when you look at the comments that have been made in the Legislature by government members, they've talked about how important paramedics are, they've talked about how essential they are, they've talked about the role they play, but they stop short of acknowledging the equality that paramedics should face in dealing with labour disputes and that they should be treated the same way as firefighters and police officers. It is not that complicated. It is not that difficult to understand. If you believe they're essential, then you treat them in such a fashion. You've sort of taken a little bit of both sides of this here. You've said, "They're essential, but we don't think they should be treated fairly, as firefighters and police officers are."

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As with hospitals and nurses, I don't believe we need strikes with paramedics, and paramedics don't want to go on strike. Paramedics want a fair process to deal with

their disputes without having to go on strike. They understand how important they are to Ontario and to health care and to well-being in this province. I really think what this bill does is an insult to paramedics. I say again to the government that if you believe it is essential, if you believe that they're important, if you believe that they're to be valued in the work they do, then I cannot see any rationale why you would not put in a process that treats them equally with police officers, firefighters and nurses in the province of Ontario.

As I've said, and my colleague will add points to this, this is a bad piece of legislation that's been rammed through by this government with no consultation, no public hearings and time allocation. We'll be out of here by this afternoon. It'll be law in the next week or two. Frankly, what this will do is cause instability for paramedics. It's going to cause uncertainty and drive them out of the province to other areas where they're treated with the dignity and respect they deserve.

This government today has a choice. They can either simply talk the talk and be warm and fuzzy about how important they are or do the honourable thing and withdraw this bill and bring in a piece of legislation that will treat them with the dignity, respect and fairness they deserve.

The Chair: We're discussing section 1 of this legislation. I have Mr Stockwell and Mr Kormos.

Hon Mr Stockwell: So we're on section 1, then?

The Chair: Yes.

Hon Mr Stockwell: OK. We could, I suppose, go into a long political debate, if you choose to, on every part of this bill. I fear we may not get to all the amendments. There's not a tremendous number of amendments either, and I'm looking to the opposition and government members to say. If you want, we can probably get through each and every amendment in the time that I see we've got set aside.

So I don't want to be long-winded and take up a lot of time in the committee that would then curtail our opportunity to actually debate the amendments. Having said that, I guess it's going to mean some co-operation back and forth. Basically, the discussion so far has been really a mirror of what took place in the House and the debate in the Legislature. I will go into that on each and every amendment if you'd like, but again, I don't know if that's going to be productive. If you really want to get to the amendments—and I think there are some good amendments here that you may find yourself voting in favour of, so it might be worthwhile.

I will comment on a couple of issues. I did meet with the paramedics yesterday and we had, I think, a frank discussion. I did talk to them about the thrust of the bill. I think I gave some explanation to them on parts of the bill they didn't—I'm not saying they didn't understand, but maybe they were somewhat confused about parts of it. With respect to negotiations for the essential services agreement, there are still negotiations for the essential services agreements under this act. All the act says is that this is an essential service and here's your box. It's still

up to the parties to negotiate who is in the box and who is out of the box, so there will still be essential services agreements between the employer and the employees, much like it used to be. If the employer and the employees agree that a certain number of paramedics are essential, then they will negotiate that between the parties. That may mean all of them are in the box, it may mean only some of them are. It may mean some can strike and some can't, just like at any other time during the essential services agreements that they used to do before this bill.

With respect to the concern of essential services agreements in the past, we were faced with a very unpleasant situation, I guess it was in the summer of 1999, when 416 in Toronto were bargaining a collective agreement. They hadn't reached an essential services agreement before the strike vote had been taken, which is fairly unusual, I think everyone would agree. I expressed this concern to the people I met with yesterday from CUPE and the paramedics and there were some very vocal statements, both privately—and I see one of the gentlemen here today and I think he can verify I'm not saying anything different today than I did yesterday. I'm not saying he agrees or disagrees, I just want to make sure I'm saying everything the same today as yesterday.

We had a very unusual circumstance in Toronto in the summer of 1999, where the union president was very vocal in his suggestion in Toronto that the paramedics were part of the union and they would go on strike. It was a clear and intended threat. There has been much argument about whether or not they would have carried out this threat. Many believe that saner heads would have prevailed and the paramedics would not have gone on strike. It was a very difficult situation. In fact, one of the gentlemen in the meeting yesterday said, "You understand, it is just a game we go through in the negotiating process."

The difficulty we have as a government is that we can't be captured in a game. If the threat is out there, both implicitly and explicitly, and the threat is made privately and publicly, we have an obligation to the people of Ontario to ensure that paramedics do not go on strike. Although it may be posturing to some degree between local bargaining units and their employer, we can't be captured in the posturing position. If someone who has a high-ranking position within the union—and it doesn't get any higher than the president—says, "No, no, paramedics are coming out with us if we go on strike," then we are obligated—mandatorily it is our fiduciary responsibility—to protect the people of whatever area these people service, to ensure that if there is a strike, nobody dies. It is just that fundamental, that if someone calls for a paramedic, they'll show up.

I myself have had experience with paramedics as a member of the Toronto council. I think they're hard-working individuals. They're qualified, good, professional people. But by the same token, when faced with the situation of a president threatening work withdrawal, as Minister of Labour in the government of Ontario, I

don't know how anyone could suggest that we wouldn't be forced into taking a position, which is ordering them back to work immediately.

The problem at the time was—and I can say this to Ms McLeod and probably Mr Kormos as well; they were in government—we were in a situation where we were in a summer recess. It would have been very difficult to get the Legislature back within probably 48 hours' notice. So we could potentially have been in a situation where paramedics would have been legally on strike for 48 hours and people's lives would have been put in danger. I don't think anyone would agree with that.

That's why we decided we needed an essential services act, something to protect the public and the paramedics to some degree, and the unions, to give clear definition about who can strike and who can't strike.

We tried to create a situation where an essential services agreement could still be negotiated locally. We said, "What you must do is provide an essential service. The employer and the union may still negotiate that essential service. Everybody doesn't have to come to work. It is up to you to determine who's an essential service, who will come to work and who won't come to work. The union and the employer will negotiate that, just like the old days."

That was the genesis of this bill, because I was in a very awkward position in the summer of 1999 thinking we could have a general strike and the implicit and explicit threat from the union president that the paramedics were going to go out with them. I didn't think they would, but I couldn't take that chance. No reasonable, thoughtful, elected official, in my opinion, regardless of party affiliation, would have taken the chance either.

We are in a situation where the argument is that they are not treated like firefighters and police. Let me address that very quickly. Firefighters and police are stand-alone bargaining units. Police are police. The only people who belong to the police union, in most of these instances, are police. There are very few ancillary uses. The vast majority of that collective bargaining unit are cops. Therefore, there is no meaningful right to strike, because everybody in that association is ideally essential.

Firefighters are exactly the same. I came from the old municipality of Etobicoke. We had 406 people who worked in our firefighting department and 403 were in the union. So it was fairly clear that that was a stand-alone bargaining unit.

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What we said is, "If you're a paramedic and you're in an association that's fundamentally stand-alone"—and in places up north there are stand-alone paramedic bargaining units—"then we say you're like a firefighters' union or a police union. You should be going directly to arbitration, because you don't have a meaningful right to strike. If you go on strike, there are not enough people who can go out that gives you any serious threat of withdrawal of service. So it's not that we're saying you're not like firefighters and cops; if you're in the same situation, you're exactly like firefighters and cops."

But through decisions of local union associations and paramedics, there are many paramedics who belong to a bigger union. East Toronto is another example. My numbers may be slightly off, but I think there are 700 paramedics, maybe 900, in Toronto. The outside workers comprise 10,000 workers. They are less than one tenth of the workforce. I do not want to simply say, very arbitrarily, "I take away your right to strike," because in the 30 years while it was in Toronto, they worked on the premise that they would get an essential services agreement, like this legislation says. They create a box and say who's essential. The union fills in the box, the management fills in the box and they agree they're essential. Everyone else can go on strike. I said, "Let's adopt that." That allows them to do what they've done for 30 years: create an essential services box and then have some members go on strike, depending on the agreement. Then the vast majority of outside workers will go on strike if they need to go on strike to get a good collective bargaining agreement.

I don't believe, fundamentally, in the arbitration process as the end-all. I believe in the withdrawal of services, lockouts and strikes as a far better way to reach a collective agreement, in my opinion, than picking one person to arbitrate a settlement. It is far better to have a full-blown lockout or strike. I suppose the paramedics for the last 30 years in Toronto have agreed because that's how they did their business. So fundamentally this legislation says that if you have a meaningful right to strike, they won't get the box. They'll fill in the box, anybody who's not in the box can go on strike, and you can go out on strike and get the best collective bargaining agreement you can want. When you get that, from all those outside workers who go on strike, whatever they collectively bargain will be given to those people who didn't go on strike. That's this bill in a nutshell.

Somehow there seems to be this idea that paramedics need to go to binding arbitration. There's this secret world that I don't know about that binding arbitration is some kind of panacea. This is where everybody wants to go. In my opinion, it's a flawed process, because that's the last place people should go, in my mind. If you have a disagreement with the employer and the union, it is far better to do it through a strike or lockout situation than create some artificial binding arbitration process set up by the government, and one person, anointed, makes the decision that the elected officials and the elected union members used to make.

That's the thrust of the bill. I've heard the opposition members' thrust of the bill: "Don't argue." That's their position. I understand that's their position. Obviously, I'm not going to convince them.

There may be some amendments here you like; I don't know. I'm sure there are one or two you may vote in favour of. I don't know about Mr Kormos, but there may be one or two that I think are acceptable. I think one of them may even have been a hybrid of an opposition request from the Liberal Party on one of the amendments.

I'm happy to go through the amendments. I think it is going to be productive. You can see, from that meeting

yesterday, we've reached some kind of consensus with the paramedics on the amendments. I don't say they love the bill, I don't even say they like the bill, but at least the meeting was productive in that way. That's the bill, folks. It would be very helpful if we walked through these amendments and had a real vigorous debate on why these amendments are coming forward, why I think they are good, and maybe you may see your way clear to support them.

Mrs Lyn McLeod (Thunder Bay-Atikokan): I am not going to redo the debate of the House, the minister will be relieved to know. I do, however, have a couple of general areas of questions related to the amendment process that I want to place to the minister before we get into the specific clause-by-clause. That might increase or lessen the degree of co-operation in moving through the amendment process.

Before I ask those two questions, though, I have to say that every time the minister speaks on this, although he's less rhetorical in committee than he is in the House, it makes us want to rebut the statements you're making about the bill, because we were all there when the Toronto paramedics' strike was a very real possibility. Some of us would go on to remember the fact that the Toronto paramedics would have been prepared to be made an essential service at that point providing there was a fair and binding arbitration process.

When you say the bill in a nutshell is protecting the right to strike of paramedics—I'm talking about paramedics, Minister, and I'm talking about the essential service component which paramedics provide and how we deal with it, which is what your bill is dealing with today. You said your bill, in a nutshell, protects the right to strike for paramedics. Your bill is both more and less than what you say it is. It is less because it doesn't provide a meaningful right to strike, nor does it provide a fair dispute resolution, as would have been provided if they were declared an essential service, because there is not a meaningful right to strike for paramedics. But the bill is also more than what you've said because it is also the agenda of the Ministry of Labour and, I suspect, of the political arm of the Harris government when it comes to labour issues. It's not just the way in which it sets out the arbitration process, it's the kinds of controls it provides to you, Minister, in appointing arbitrators. That is a very serious issue which I don't believe your amendments have addressed.

I'm not sure how far you're going, Minister—

Hon Mr Stockwell: Coffee.

Mrs McLeod: —but I do have those questions for you. Would you like me to wax on about my objections? I'd rather ask you the questions now.

Hon Mr Stockwell: OK, shoot the questions.

Mrs McLeod: Maybe before the minister comes back I'll just suggest that the objections he makes to arbitration as being the be-all and end-all of a process are probably beliefs he and his government hold very strongly when they know it's the local level of government that is going to have to do the negotiation and is also going to

bear the result of the costs as they try to maintain an element of essential service. There's absolutely no question, as my colleague has said, that this is going to introduce instability, that it's going to lead to a shortage of paramedics and that there are going to be significant local costs, because local municipalities will know they cannot sacrifice the paramedic service in their areas.

There are two questions that I want to ask the minister before we begin clause-by-clause. The first is that you say you've met with the paramedics, you've put forward some amendments that you believe—I think the term you used was “would have the agreement of the paramedics.” We all know that the paramedics have put forward proposed amendments. I'm not sure that the government amendments reflect the proposed amendments that have come from the paramedics. I guess I would like you to explain a little further whether or not you have in fact incorporated all of the recommendations of the paramedics in your amendments.

Hon Mr Stockwell: No, that would be far too far. No, I haven't incorporated all of their recommendations.

Mrs McLeod: This is my second question. It's a supplementary to the first. Would you please identify for us which of the paramedics' recommendations for amendment you have chosen not to incorporate?

Hon Mr Stockwell: I don't have the paramedics' recommendations specifically before me. It would be difficult for me to itemize their recommended amendments because they're not before me right now. I can only tell you that as the government amendments come up, I will certainly speak to them.

Mrs McLeod: Did you not use the term “consensus” following your meeting with the paramedics?

Hon Mr Stockwell: I think what I said was that they may find them more acceptable than the bill. I would not suggest for a moment that they would like these or love them—I think I said that in my speech—but I guess they would find them more acceptable than the bill in its present form.

Mrs McLeod: I certainly hope we will have ample time to identify why they might not go far enough—

Hon Mr Stockwell: I will certainly do that.

Mrs McLeod: —and why the amendments will still leave this legislation as a deeply troubling piece of legislation unless the government sees fit to act on some of the opposition amendments, which reflect the concerns the paramedics have expressed. These amendments have not come from a philosophical stance against the government's labour agenda, although we would be happily prepared to move amendments that would reflect our opposition to your labour agenda, but in fact these amendments come directly from the concerns of the paramedics.

My second question, then, is a general question before we get into this. I know you have Ministry of Labour support here.

Hon Mr Stockwell: Yes.

Mrs McLeod: Is there anybody here from the Ministry of Health to whom we can address questions?

Second, as part of that question, to what extent have you consulted with the Ministry of Health in terms of the health impact of this labour legislation, which clearly is a health issue?

Hon Mr Stockwell: Yes, there would be someone here from the Ministry of Health and, yes, we have consulted with them very broadly and on an ongoing basis with respect to this piece of legislation.

Mrs McLeod: Has the Ministry of Health expressed any concerns about the instability which will be posed for ambulance services when this legislation is passed, if it goes forward?

Hon Mr Stockwell: Not to me.

Mrs McLeod: Because, Minister, in the course of the debates—

Laughter.

Hon Mr Stockwell: I don't know why that's so funny.

Mr Kormos: It's like, "I have very specific plans about not shutting down hospitals," or "I don't have any plans to shut down hospitals."

Hon Mr Stockwell: OK, then, you can choose not to believe me.

Mrs McLeod: I see it actually as being fairly serious. If you think why that's funny, I don't think it's funny, because we've had a series of issues in the House in the last little while about ministers who have advised other ministers of warnings that other ministers didn't listen to and resulted in the deaths of seven people. Not to get into that, but—

Hon Mr Stockwell: OK, let's not get into that.

Mrs McLeod: —the issue of health and whether or not the Ministry of Health has really looked at what the impact of this legislation is on paramedic services in this province is a pretty significant issue, certainly to me as the health critic.

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Minister, I have to tell you, you have expressed what I think is a remarkable lack of understanding of how stretched paramedic services are, including in the city of Toronto, when you refer—and I'm quoting you from the House now—to the fact that in the north we may not be able to sustain a strike because we have rather small numbers of paramedics, but in Toronto where there are hundreds of paramedics, they should be able to go on strike and actually have an essential services agreement which allows numbers of them to go on strike.

If you were to talk to the Ministry of Health and anybody out there who knows anything about paramedic services in the city of Toronto, they would tell you that at any given time now there are probably 10 ambulances available for emergency calls of 90 units. I don't think there is an ability to sustain a meaningful strike of paramedics in the city of Toronto and I think the Ministry of Health would have been able to tell you that—

Hon Mr Stockwell: Well, you don't understand the bill, though.

Mrs McLeod: —and you would have been in a position of saying, "There is a need for essential service legislation for paramedics." If you are serious about

protecting the safety of people when it comes to paramedic services, it would be through declaring them an essential service.

Hon Mr Stockwell: So through binding arbitration somehow this would create more paramedics, is that what you're saying?

Mrs McLeod: I'm saying that this legislation, which is going to create tremendous instability—

Hon Mr Stockwell: Why?

Mrs McLeod: Because there is neither a meaningful right to strike nor a fair dispute resolution process. Minister, that's been the subject of the debate, it's been the subject of our debates, and I'll tell you, if you think we're just making arguments by saying there will be a shortage of paramedics, I know the paramedics in my home jurisdiction—where even you have said we can't afford to lose any—are facing regular offers from the United States to go there. They will go if there is not some reasonably stable work environment for them. That's why I am deeply concerned that the Ministry of Health has not expressed to you any concerns about the impact of this legislation on paramedic services.

Mr Agostino: To follow up on what my colleague has just said—

The Chair: OK, Mr Kormos.

Mr Agostino: Oh, I'm sorry.

The Chair: Go ahead, Mr Agostino, and then we go to Mr Kormos.

Mr Kormos: I've got a question to the Ministry of Labour staff dealing with section 1.

The Chair: Let me go to Mr Kormos then, if you're objecting.

Mr Kormos: I want to ask you about clause 1(1)(c). Why is that regulatory power necessary to deem yet more employees as ambulance workers, but in fact they are not ambulance workers according to the definition in subsection 1(1)?

Hon Mr Stockwell: I didn't hear that question. Can I hear it again?

Mr Kormos: Clause 1(1)(c): why is the regulatory power necessary to deem people ambulance workers when they're in fact obviously not ambulance workers, because ambulance workers are defined in clauses (a) and (b)?

Hon Mr Stockwell: Staff, you may respond. I think it surrounds the ancillary uses of paramedics, in a sense. For instance, if someone is a mechanic who works on fixing the ambulance trucks, they're deemed to be an essential service because they need to fix the trucks. The trucks can't break down, because if they break down they can't get to a call. So we need the power of regulation to determine who is an essential service. There could be a whole series of people out there in that situation who truly are not paramedics but are in fact essential because their job ensures that the paramedics can get to a call. A good example would be mechanics.

Mr Kormos: Unfortunately, in the bill there are no standards by which those regulations will be set. It doesn't describe it in that way. It provides just a free-

ranging power to define anybody in regulation in ambulance services.

Hon Mr Stockwell: But that's because, under the essential services agreements they've worked under before, those were the kinds of parameters they were given to determine who is an essential service, who fits into the box.

We didn't want to tie the hands of the paramedics or the employer. We believe they are better at making the decision about who is essential and who isn't. Who fits into the box may be a whole series of people. It could get down to the point that you have someone who crouches around picking up parts for trucks and, if you lost them, then the trucks couldn't operate. So they may in fact be declared essential. That's up to the employer and the union to determine who fits into the essential service box.

Mr Kormos: In the government's regulatory power, behind closed doors, in cabinet.

Hon Mr Stockwell: I don't know of any way other than by regulation to do that. If you have a way of figuring it out, I'd be happy to hear it, but you certainly didn't have any idea when you were in government, because it fits pretty much all the standard bills that come forward.

Mr Kormos: That's big.

Hon Mr Stockwell: That's big. OK.

Mr Kormos: Real big.

Hon Mr Stockwell: Big thinking or—

Mr Kormos: No.

Hon Mr Stockwell: No, OK.

Mr Kormos: You should be more sensitive to sarcasm when it's so obvious.

Hon Mr Stockwell: I'm sorry, I didn't realize. I just didn't know that was sarcasm.

The Chair: I'll go to Mr Agostino.

Mr Agostino: Just a follow-up quickly on the question by my colleague, and I think it is a very, very important point, and that is the advice of the Ministry of Health in this because really, at the end of the day, it's a labour issue but they're health workers, individuals. Would you be willing to table to the committee of the Legislature the advice on this given to you by the Ministry of Health?

Hon Mr Stockwell: The difficulty is that over the period of I'd say a year when we were working on this bill, there were any number of meetings that took place, both written and verbal. There's been a whole series of meetings that have happened, so when you say "table advice"—when we go to cabinet committee, Ministry of Health could be there offering advice, offering their opinion. So, much like I'm sure you understand how it would work, there are many meetings that take place where the advice is verbally given to ministry staff and to myself.

Mr Agostino: Just to follow up, as part of your consultation process you would write to the ministry and say, "Here's what we are planning to do. What is your opinion as to the impacts this legislation would have on the health aspect?" I would assume that senior staff at the

ministry level respond to you and say, "We think it's fine," or "No. Here are the problems we identify with it," and it is imperative. Against the backdrop of what's happened in this province in the last few years, that advice from the health ministry is absolutely essential to this, and I think the point my colleague made is extremely well taken. Ontarians should have the ability to look at the advice given by the Ministry of Health, because I think there would be concerns expressed as to the impact it would have. Again, I would like to see the written information tabled as to what advice they gave you.

Hon Mr Stockwell: Tracey, can you itemize some of the issues?

Ms Tracey Mill: Yes, I can actually speak to that. In preparing the recommendations for cabinet and in drafting the legislation, the Ministry of Labour put together a working group that included representation from the Ministry of Health. The Ministry of Health was actually on a working group that was working to develop these options and the legislation. Many parts of the legislation actually pick up on parts of the Ambulance Act. In terms of developing the definition of an ambulance worker and identifying the essential services, the Ministry of Health of course is the expert in this area, and they were providing us with that advice.

The Chair: Can I interrupt for a moment? Could we ask you to identify yourself?

Ms Mill: I'm Tracey Mill. I am the assistant director of the employment and labour policy branch with the Ministry of Labour.

The Chair: Mrs McLeod, did you have a point on that?

Mrs McLeod: It's probably a question about process and maybe I've just been around too long. The government often likes to refer back to when we were in government, so let me refer back to when we were in government. My recollection is that in any major piece of legislation, the final bill would be circulated to all affected ministries and all affected ministries would be required to provide their written response to the effect of that legislation on their particular responsibilities in their ministry. Is that no longer the process? Have we reached the point where the only kind of analysis that other ministries are asked for is an economic analysis?

Hon Mr Stockwell: No. Let me just respond. We do that one better. You see we actually set up the working groups, so we don't just send the final bill out and ask them to respond to the final bill.

Mrs McLeod: So you have nothing in writing?

Hon Mr Stockwell: We actually set up working groups with every affected ministry. The ministry goes to these working groups and actually has input into the drafting and implementation of that bill. So, when you see the bill in its final form, you can be certain if it reaches the cabinet committee level—

Mrs McLeod: No problem with that; that's fairly standard.

Hon Mr Stockwell: —that all ministries have had full input.

Mrs McLeod: And nothing in writing, then? No paper trail in terms of the advice you've received?

Hon Mr Stockwell: All we can give you is a list, I suppose, of the meetings and the attendance.

Mrs McLeod: You have no written advice from other ministries on a major piece of legislation, and that's no longer a process of the government?

Hon Mr Stockwell: Well, no. All I can tell you is categorically they sat down during the process and had direct input into the bill itself, so in final form they have had their position heard and are in favour.

Mrs McLeod: I can appreciate why your government is very sensitive to document searches but I find that really unacceptable.

Interjections.

The Chair: Order. I'd just ask visitors—we normally wouldn't tolerate any outbursts or applause. Thank you.

We're debating section 1. Is there any further debate or discussion on section 1?

Mr Kormos: Just very briefly. Last Thursday, the Minister of Labour told the House about his fear of the paramedics and his inability to come to the Legislature because paramedics were here. I'm pleased to see that he has overcome that phobia. I congratulate him on whatever work he had to do over the weekend, be it therapeutic or otherwise, to overcome what was his unnatural fear of paramedics on Thursday. I congratulate him.

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Hon Mr Stockwell: I believe every member of this precinct has the right to free access and movement. I believe every member has been elected by their constituency. I believe every member should be allowed to move freely within this building without fear of reprisal or confrontation. I would respect that right for any member of the NDP caucus—all nine of them, as a matter of fact. I would respect that right for the Liberal caucus, as well. I would also respect that right for myself.

There are 100,000 people in Etobicoke Centre who elected me. They've elected me to represent them. If through some process of demonstration, aided and abetted by the member for Niagara, then I think the people of Etobicoke Centre have a right to say, "My member should have free and full access to the Legislature. If he does not, then his privilege as a member has been usurped." I do not take kindly to that. I would never do that to you, and I'm very surprised, knowing the true democrat you are, that you would do it to others.

The Chair: Is there any further debate?

Mr Kormos: You couldn't have been in better hands. I mean had somebody had a heart attack or taken a fall last Thursday, there were more paramedics than you could shake a stick at. They would have taken care of you, as well as me, I'm sure.

Hon Mr Stockwell: I was in no fear of that, Mr Kormos. I understand very rightly that you represent your constituents as well as you can with your limited powers, but I do my best to represent the people of Etobicoke

Centre as best I can. I think when you take decisions and act the way you did, you're undermining the privileges of members of the House. I wouldn't do it to you. I don't do it to the opposition.

Mr Kormos: What about the public? What about the privilege of the paramedics to have their voice heard?

Hon Mr Stockwell: Paramedics can be—

Mr Kormos: The only reason they got a meeting with you was because of what they did on Thursday.

Hon Mr Stockwell: No, not at all, Mr Kormos.

Mr Kormos: Oh, yes.

Hon Mr Stockwell: Not at all.

Mr Kormos: Oh, yes.

Hon Mr Stockwell: Oh, no, not at all. The request for a meeting was always entertained, always agreed to. The fact is that if you're going to do what you did, which is undermine members' rights of access, freedom of movement—it's a fundamental democratic principle, and I think you should understand that. If anyone undermined your privileges in this building, you would be the first to stand on your hind legs and complain.

Mr Kormos: Fortunately, I'm not afraid of constituents, be they paramedics—

Hon Mr Stockwell: You were afraid of your own government. I wonder what else you're afraid of.

Mr Kormos: Mr Stockwell, I'm not afraid of constituents, be they paramedics or any other group of working people.

The Chair: Is there any further debate on section 1? Shall I pose the question? We're voting on section 1, the Ambulance Services Collective Bargaining Act, 2001.

Mr Agostino: Recorded vote, please.

Ayes

Miller, Molinari, Mushinski, Wettlaufer.

Nays

Agostino, Kormos.

The Chair: We now go on to section 2 of this legislation. I would ask two questions. Are there any amendments to section 2 or is there any debate on section 2?

Mrs Tina R. Molinari (Thornhill): I move that subsection 2(1) of the bill be amended by striking out "with respect to them" and substituting "with respect to their collective bargaining."

The Chair: Any debate or discussion on this amendment?

Mr Kormos: I'd be pleased to hear some rationale for the amendment.

Hon Mr Stockwell: Simply put, the amendment—

Mr Kormos: Give Ms Molinari a chance to provide some rationale for it.

Hon Mr Stockwell: I'll be happy to.

Mrs Molinari: I defer to the minister.

The Chair: Mr Stockwell, then.

Hon Mr Stockwell: The amendment to subsection 2(1) is simply removing "with respect to them" and substituting "with respect to their collective bargaining." The rationale is, one municipality has applied to the Ontario Labour Relations Board to have its ambulance paramedics deemed as firefighters and placed into the firefighter bargaining unit. If the OLRB grants the municipality's application, this amendment will clarify that the Fire Protection and Prevention Act, and not the AFCBA, applies to that specific bargaining group.

The Chair: Any further discussion on this amendment to—

Hon Mr Stockwell: I think that's probably agreed to by all parties.

The Chair: Any further discussion on this amendment to section 2? Shall I pose the question? Shall this amendment to section 2 carry? Carried.

Mr Kormos: Recorded vote.

The Chair: We've already had the vote. I would ask the committee to move on to section 3. Oh, I'm sorry, the next question. We have an amendment to section 2.

Mr Kormos: Recorded vote.

Ayes

Miller, Molinari, Mushinski, Wettlaufer.

Nays

Agostino, Kormos, McLeod.

The Chair: We move on to section 3. Any debate on section 3? Any amendments to section 3? Shall I pose the question on section 3? I see no amendments. I should ask, does anyone wish a recorded vote?

Mrs McLeod: Are we still on the debate section of the question?

The Chair: We have debate on section 3? Certainly.

Mrs McLeod: If I can read section 3, and I recognize that there are not amendments proposed to it. If I have the right section, subsection 3(1), "An employer and a trade union who are bound by a collective agreement or who are negotiating a first collective agreement shall negotiate an essential ambulance services agreement."

Before we simply vote against this section, as we will be voting against any sections until we get to some amendments in the hope of getting some support for reasonable amendments, this section is the nub of our objection to the bill. This is about negotiating essential services agreements as opposed to declaring the paramedics to be an essential service, so we will be opposing this section. It's not amendable.

The Chair: Any further discussion on section 3? Shall I pose the question?

Mr Kormos: Recorded vote.

Ayes

Miller, Molinari, Mushinski, Wettlaufer.

Nays

Agostino, Kormos, McLeod.

The Chair: I'd ask the committee to move to section 4 of this legislation. I would ask if there are any amendments or any debate on this section.

Mrs Molinari: I move that section 4 of the bill be amended by adding the following subsections:

"Postponement

"(6) Despite clauses (1)(d) and (e), the parties may postpone taking the steps described in those clauses.

"Effect

"(7) If the parties postpone taking the steps set out in clauses (1)(d) and (e) but the agreement otherwise complies with subsection (1), it is in effect for the purposes of section 18, but it is not in effect for the purposes of section 12 until the postponed steps have been taken, in writing."

Mrs McLeod: This is a government amendment. I would ask the minister to explain to us the reason for his amendment and to tell us whether or not this is an amendment with which the paramedics agree.

Hon Mr Stockwell: Simply put, in a strike situation and that box that I talked about earlier, some members of the paramedic associations would be in the box and others wouldn't. In order to have a better vote or a more acceptable vote for all parties, what this basically says is we're not going to identify who is an essential service and who isn't until the actual time when the strike occurs. Therefore, nobody knows if they're going to be an essential service or if they're not, so there's no concern that they're voting a certain way or another way because they will go on strike or they won't go on strike. I think this is a pretty fundamental approach they took during most essential services agreements around the province previous to this legislation. It's more or less a protection for all those people to know that they don't have any extra information about whether they'd go on strike or they wouldn't go on strike, so they'd vote with a clear conscience.

Mrs McLeod: In any of your discussions with the paramedics—

Hon Mr Stockwell: No, this didn't come up.

Mrs McLeod: Were there some before yesterday?

Hon Mr Stockwell: There were discussions, sure, with some associations.

Mrs McLeod: In all of these various working groups that you've told me got together and worked for a year—

Hon Mr Stockwell: Those would be internal, right? You asked about internal working groups.

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Mrs McLeod: So there was no discussion with paramedics during that year?

Hon Mr Stockwell: Hold it, I've got to understand your question. I thought you asked about the Ministry of Health. That would be internal to government.

Mrs McLeod: I did.

Hon Mr Stockwell: Now you're asking external?

Mrs McLeod: This is my first question, if you'll remember. The Ministry of Health was my second question. The first question was about consultation—

Hon Mr Stockwell: No, no, I just want to get this clear. You said with all these working groups and I thought the answer that you were looking for was internal. Yes, there were a number of working groups internal. Now, don't contrast that with the external consultations.

Mrs McLeod: I understand. You're telling me that the working groups were exclusive of any consultation with paramedics because they weren't internal to the process.

Hon Mr Stockwell: Right, good. We've got that clear.

Mrs McLeod: Then, as I understand it from the input you've give us so far, your meeting with the paramedics consisted of yesterday's meeting.

Hon Mr Stockwell: I know there were discussions with some groups and associations previous to the bill, in fact as far back as a year ago, even longer. So yes. This didn't come up in the discussions yesterday. But if that's the question—simply put, I don't think this is that controversial.

Mrs McLeod: That's not the question. I was attempting to find out what the basis of knowledge would be so I can ask you my question. My question is 4(1)(a), "An essential ambulance services agreement shall, (a) set out the number of ambulance workers who are required to provide essential ambulance services."

Hon Mr Stockwell: Right.

Mrs McLeod: This is the crux of whether or not you can in fact negotiate a meaningful essential services agreement that still protects a meaningful right to strike.

Hon Mr Stockwell: Right.

Mrs McLeod: In the course of your internal discussions, where the Ministry of Health presumably was your source of information, or in any kind of—I'm having difficulty posing the question because it sounds as though you didn't have any real input from paramedics.

Hon Mr Stockwell: No, no, don't—

Mrs McLeod: Then my question is, has anybody at any point suggested to you what number of ambulance workers would be required to provide essential ambulance services in order to negotiate an essential services agreement, and with that number that would be required to have an essential services agreement, how many that would leave potentially in any given jurisdiction to go on strike? You cannot come here and claim that you've protected the right to strike unless you know what the current situation is in terms of the number of ambulance workers currently employed who would be required to provide an essential service related to the number who would be left in any jurisdiction who would indeed be able to carry out a meaningful strike.

Hon Mr Stockwell: I think you're confusing a part of this legislation. We are not suggesting that the number of paramedics who would be allowed to go on strike would create the meaningful right to strike. It would be a broader context. All those other workers that belonged to

that union would in fact be giving them the meaningful right to strike. So all those waterworks people, the grass cutters, the outside workers, the garbage men, the arenas, all those other people would create the meaningful right to strike. We're not suggesting because you get an essential services agreement and a few paramedics get to go on strike that that on its own would create the meaningful right to strike.

Mrs McLeod: So what you're saying is that in a situation in which there is more than one group of employees within the bargaining unit, the paramedics don't have the right to strike; they would be the essential services and the rest would have the right to strike. You've already said that there are stand-alone situations. Let me pose my question for those stand-alone situations. Do you have any idea of how many jurisdictions would have the number—first of all, do you have the number that would be required to provide essential ambulance services and how that relates to the number of paramedics employed to sustain a meaningful right to strike?

Hon Mr Stockwell: Again, off the top of my head, I don't. I don't know if you brought those numbers.

Ms Mill: If I could just clarify, your question is with respect to clause 4(1)(a). This allows the parties to negotiate what is the right level or the right number to deliver the essential services. That's what the parties are going to negotiate.

Mrs McLeod: I understand that.

Ms Mill: That number will differ, depending on the local situations, as you have suggested. For that reason, it's left up to the parties to negotiate.

Mrs McLeod: I understand that fully. The government has brought forward a significant piece of legislation and it surely has some basis in knowledge, whether it has come from the Ministry of Health or not; it certainly hasn't come from paramedics. But there must be some basis of understanding as to whether this legislation can work. You tell me it's all going to be arrived at locally, and it's going to be different from local situation to local situation. I know that. That's part of the problem with the legislation. But surely you have some idea, Minister, whether this can work anywhere. What I'm hearing is, you have no evidence that this can work in any jurisdiction.

Hon Mr Stockwell: Again, I'm trying to be helpful here.

Mrs McLeod: I'm trying to find out why you brought forward legislation that is unworkable.

Hon Mr Stockwell: You're suggesting it's unworkable. I'm suggesting it's not unworkable. Your question seems to be—

Mrs McLeod: But you don't seem to have a basis of knowledge for saying that. I was looking for your information.

Hon Mr Stockwell: I'm trying to understand your question. If your question is, "Do we have an idea of how many jurisdictions would be declared stand-alone bargaining units and would be referred to binding arbitration?" Yes, we have an idea. But again, that's not a

decision we take. That would be a decision for the Ontario Labour Relations Board to determine. But there are a significant number out there that we believe would be considered stand-alone bargaining units.

Mrs McLeod: That doesn't answer the question, though.

Hon Mr Stockwell: Then try again; I'm sorry.

Mrs McLeod: The question is, if you have decided that instead of making paramedics an essential service with a fair dispute resolution mechanism, which would be binding arbitration, that you're going to bring—

Hon Mr Stockwell: I don't agree with that.

Mrs McLeod: I realize you don't agree with that, but you've made a decision. You've clearly made a different decision. Your decision is to allow them to negotiate an essential services agreement which you claim, over and over, puts you as Minister of Labour in the position of having protected a meaningful right to strike for these.

Hon Mr Stockwell: Right.

Mrs McLeod: My question is, on what basis have you made a decision that this could actually work, that there is any possibility of essential services agreements that allow a meaningful right to strike?

Hon Mr Stockwell: With great respect, member for Thunder Bay-Atikokan, it's worked that way for 30 years in Toronto. It's worked exactly that way for 30 years in Toronto. They negotiate an essential services agreement. Some paramedics may go on strike—most don't—the rest of the outside workers go on strike, they have a meaningful right to strike, they get a collective agreement, and whatever they negotiate they give to the paramedics.

We don't need to tell you how it's supposed to work or whether we think it can work; we'll just show you 30 years when it has worked.

Mrs McLeod: Minister, you've just said the reason for bringing in this legislation is that you had a situation in Toronto that you didn't think was manageable from the government's perspective.

Hon Mr Stockwell: Up until the last collective bargaining process, for 30 years before that—

Mrs McLeod: For some reason it's collapsed. That's why, then.

Hon Mr Stockwell: For 30 years before that, it in fact worked fine. Only in the last collective bargaining process in the city of Toronto did it break down. It's worked for 30 or 35 years.

Mrs McLeod: So you've brought in legislation to address a problem that has suddenly been created in your government in the city of Toronto—

Hon Mr Stockwell: We think it's a wonderful way to do business, and the paramedics thought it was a wonderful way to do business for 35 years.

Mrs McLeod: But you have no way of knowing whether this could ever work outside the city of Toronto, and it clearly wasn't working in the city of Toronto or you wouldn't have brought the legislation—

Hon Mr Stockwell: We have a fundamental disagreement. I have history that says it worked for 30 or 35 years; you say it doesn't work. Well, that's politics.

Mrs McLeod: You bring a Toronto perspective, Minister. I wanted to get something of an outside Toronto perspective on this legislation, since it applies across the province.

Hon Mr Stockwell: I'm very interested in hearing your outside Toronto perspective, and I've spent some time hearing it. Where this applies will generally be the larger bargaining units in southern Ontario. Some smaller units in northern Ontario that are stand-alone bargaining units will go directly to arbitration, so they won't have to worry about this meaningful right to strike.

Mrs McLeod: We'll have some further questions about whether the legislation does that.

Hon Mr Stockwell: OK, I can't wait.

The Chair: Any further debate on this amendment to section 4? Shall I pose the question? Do we wish a recorded vote?

Hon Mr Stockwell: He wants you to pose the question first, then he'll say, "Recorded vote." That's what he wants to do.

The Chair: My understanding is that once I call the vote—I guess I'll ask again. Does anyone request a recorded vote? My understanding is that we should determine this before we vote.

Mr Kormos: The process is to call the question, put the vote to the committee and then, if somebody wants a recorded vote, they say, "Recorded vote."

The Chair: Shall this amendment to section 4 carry? Carried.

My understanding is that it's now too late to request a recorded vote. I'll ask the clerk to explain some of the details of this.

Clerk of the Committee (Mr Tom Prins): When the Chair originally pauses or says he is about to call the question, that would be a member's cue to ask for a recorded vote, and then he'd put the question, "All in favour?" If he hears a no, then we would count hands. The names won't be recorded, but there would be a decision by a show of hands.

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The Chair: I heard a no. All in favour? All those opposed? I declare the amendment to section 4 carried.

I'll now pose the question with respect to section 4, as amended.

Mr Kormos: Recorded vote.

Ayes

Miller, Molinari, Mushinski, Wettlaufer.

Nays

Agostino, Kormos, McLeod.

The Chair: Carried.

Section 5: any debate or amendments? Shall I pose the question on section 5?

Mr Agostino: Recorded vote.

Ayes

Miller, Molinari, Mushinski, Wettlaufer.

Nays

Agostino, Kormos, McLeod.

The Chair: I declare section 5 carried.

We now turn to section 6 of this legislation. Any debate or discussion? Shall I pose the question?

Mr Kormos: Recorded vote.

The Chair: Recorded vote.

Mr Kormos: You should say, "I propose to put the question" or "I am about to put the question," instead of asking us if you should put the question.

The Chair: Maybe I won't ask. If anyone does wish a recorded vote, just let me know.

We're voting on section 6. Shall section 6 carry?

Mr Kormos: Recorded vote.

The Chair: Carried.

Mr Kormos: I asked for a recorded vote.

The Chair: I'm sorry; you asked for a recorded vote?

Mr Kormos: Yes.

The Chair: I don't want to get into the picayune details on this.

Mr Kormos: I asked for a recorded vote three times on this section.

The Chair: Fine. Shall section 6 carry?

Ayes

Miller, Molinari, Mushinski, Wettlaufer.

Nays

Agostino, Kormos, McLeod.

The Chair: We now turn to section 7. Any discussion or debate? Shall I pose the question?

Mr Kormos: Recorded vote.

Mrs McLeod: Before the vote, I have a question on subsection 7(3):

"Delegation

"The minister may delegate in writing to any person the minister's power to make an appointment under this section."

Could you tell me, Minister, why this particular clause is here?

Hon Mr Stockwell: I'm sorry, I didn't hear the question.

Mrs McLeod: It's the whole issue of delegation. Obviously we don't disagree with having conciliation officers appointed at the request of either party, but the section says, "The minister may delegate in writing to

any person the minister's power to make an appointment under this section."

Hon Mr Stockwell: I think it's rather technical. I'll ask Tracey to respond. I presume it's if I'm incapable of giving that decision.

Ms Mill: It's merely to expedite the process in terms of the appointment of conciliation officers. Traditionally, the power is delegated to the director of labour management services at the Ministry of Labour.

Mrs McLeod: The wording in the legislation is standard wording, then?

Mr John Hill: I'd have to check—I'm John Hill, a lawyer with the Ministry of Labour legal services branch. If you give me a moment, I can confirm. I think the wording comes from the Labour Relations Act, 1995.

Mrs McLeod: That makes me nervous.

Hon Mr Stockwell: Excuse me?

Mrs McLeod: That makes me nervous.

Hon Mr Stockwell: It doesn't make us nervous.

Mr Hill: It's subsection 121(1) of the Labour Relations Act, 1995, that this is modelled on.

The Chair: Any further debate? Seeing none, shall I pose the question?

Mr Kormos: I've already asked for a recorded vote.

Ayes

Miller, Molinari, Mushinski, Wettlaufer.

Nays

Agostino, Kormos, McLeod.

The Chair: I declare section 7 carried.

We now turn to section 8 of this legislation. Is there any debate on section 8? Seeing none, shall I call the vote?

Mr Kormos: Recorded vote.

Ayes

Miller, Molinari, Mushinski, Wettlaufer.

Nays

Agostino, Kormos, McLeod.

The Chair: If the committee could now turn to section 9, I will call for any debate or amendments.

Mr Agostino: I move that the bill be amended by adding the following section:

"Referral to arbitration

"9.1 (1) Upon the application of either party, or on its own initiative when an application has been made under section 9, the board may order that all matters remaining in dispute between the parties be referred to an arbitrator for final and binding interest arbitration."

The Chair: May I interrupt for a second? I think you're proposing a new section.

Mr Agostino: It's 9.1. We're on section 9.

The Chair: I'd like to deal with section 9 first, if I could look at this, and then I think we would go to this new section 9.1. We'll deal with section 9 first.

Mrs McLeod: On a point of procedure: We can't vote on section 9 when section 9 is about to have a subsection proposed to it. We can't vote on the entire section.

The Chair: I'm not sure if it's a subsection. I think it's a brand new section.

Mrs McLeod: It says section 9.1.

Hon Mr Stockwell: Is this the Liberal—

The Chair: Yes.

Hon Mr Stockwell: I think that's a new section.

Mrs McLeod: Would this be section 10?

The Chair: We already have a section 10.

Hon Mr Stockwell: What would happen is that if it's agreed to, everything would get bumped up one when they print it.

The Chair: I understand we're dealing with a proposed new section.

I ask that we deal with section 9. Any discussion or debate on section 9?

Mrs McLeod: I just want to make the point that we are proposing an amendment to this section, because we're extremely concerned about this section. We hope the government will see fit to consider our amendment.

The Chair: OK, and I just want to make it clear whether this is an amendment or a brand new section. I'll ask the clerk.

Clerk of the Committee: The amendment before us, I guess, is adding a brand new section, number 9.1. That's a whole new section that would come between section 9 and section 10. So we'd deal with section 9 first. This would be a motion that stands on its own to insert a brand new section, and then we'd proceed with section 10.

The Chair: So let's deal with section 9. Is that clear?

Mr Agostino: I just want to ask, on section 9, because it is an important aspect of this bill, could the minister or someone else outline if there was any discussion or consultation with paramedics on section 9 and the impact it would have?

Hon Mr Stockwell: Can you give me a specific—

Mr Agostino: The section overall. It's an important section as regards the process that is used to send matters to arbitration.

Hon Mr Stockwell: It's tough for me to give you a broad answer. If you had a specific question on any specific issue in section 9—but, sure, there was discussion.

Mr Agostino: With the paramedics before this was—

Hon Mr Stockwell: I suppose there was a discussion yesterday on virtually the whole bill, in essence, and, yes, there was discussion over the year. If you have a specific issue you'd like me to address, I'd be happy to.

Mr Agostino: Just to follow on that, there was the consultation here, and there is someone here from the Ministry of Health.

Hon Mr Stockwell: They're not from the Ministry of Health.

Mr Agostino: So there's no one here from the Ministry of Health?

Hon Mr Stockwell: Yes, there is, but the rest of them—there he is. What's the question?

Mr Agostino: Again, just on section 9, as it has an impact as it goes to an essential services agreement and how they'll get resolved, and how quickly they get resolved is the difference, I guess, between section 9 and what section 9.1 will be—the mechanism you have for resolving a dispute and the mechanism we have, which we think is a much quicker and fairer one. Did the Ministry of Health have any concerns about the mechanism that is in place under section 9 as to what impact it might have in regard to service being provided to Ontarians who may need the service of paramedics?

Hon Mr Stockwell: Before we actually get into asking the staff the question, I just want to say that the ministry was spoken to. There was a working group put in place. If your question is, are there concerns with respect to the Ministry of Health as to whether section 9 is workable and if it's feasible, as opposed to the new Liberal section, I don't know if the Ministry of Health would be able to comment on the viability of the Liberal amendment.

Mrs McLeod: I take that as a warning.

Hon Mr Stockwell: I don't mean that as a warning at all. With great respect, I don't know if they have even seen the Liberal amendment.

1130

The Chair: For the purposes of Hansard, I would ask staff to identify themselves, please.

Mr Rob Nishman: My name is Rob Nishman. I'm the project manager, air ambulance.

Mrs McLeod: Could I just confirm: does that include air ambulance?

Mr Nishman: Air ambulance, yes.

Mrs McLeod: Are they a group that's not affected by this legislation?

Hon Mr Stockwell: Right now they're not affected.

Mrs McLeod: Right.

Hon Mr Stockwell: But I don't think he's even seen the Liberal amendment. Have you?

Mr Nishman: No, I haven't seen it.

Hon Mr Stockwell: It's very difficult for him to comment on an amendment he's never even read.

Mrs McLeod: May I ask the project manager for the air ambulance section whether he's been directly involved in the working groups on this particular legislation?

Hon Mr Stockwell: Whether he has been directly involved?

Mrs McLeod: Yes.

Mr Nishman: Once again, I'm the project manager, air ambulance and patient care, for the Ministry of Health. I'm not in the policy branch, if that's the question I was asked.

Mrs McLeod: Mr Chair, we have a great many questions about air ambulance, and if we weren't determined to deal with some amendments to this legislation, I would

be very happy to avail myself of the resources of Mr Nishman and ask a lot of questions about air ambulance, its future and its collective bargaining future. But I don't think that's relevant to this legislation.

Hon Mr Stockwell: OK. I think we have a new Ministry of Health official.

Mr Dave Strang: Dave Strang, from legal services branch, Ministry of Health.

Hon Mr Stockwell: Have you seen the Liberal amendment?

Mr Strang: No, I'm afraid I haven't.

Mr Agostino: First of all, we'll go back to section 9—we're talking about your bill. The question I had was that section 9 sets a number of parameters—length of a strike or length of disruption, determining if a strike has lasted long enough and so on—the kinds of things that are part of the consideration in section 9 as now written. I guess the question I have is: have the the Ministry of Health folks who gave the minister input on this, as we have been told, made a determination on this section in regard to the mechanism for going to arbitration and the factors involved, whether there's a potential for disruption to service and a health threat to Ontarians as a result of the hoops that are in place right now under section 9 to resolve a dispute?

Hon Mr Stockwell: They have.

Mr Agostino: May I hear from them?

Hon Mr Stockwell: I'm the Minister of Labour. I'm carrying this bill. I've had much conversation with the ministries of Labour and Health, and the protocol is, simply put, the questions go to the Minister of Labour. The response is, yes, they have. They don't have concerns with the legislation with respect to disruption of services.

The Chair: Mrs McLeod?

Mrs McLeod: I don't want to detract in any way from the amending process to this bill, but I do want to ask, since the Ministry of Health has had Mr Nishman come forward and Mr Nishman is project manager for the air ambulance, and the minister's response was that air ambulance workers would not be covered under this legislation because, as you know, the air ambulance paramedics are still, at least as we speak, employees of the government of Ontario, it would be my understanding that if privatization of the air ambulance goes ahead, the paramedics would be removed as employees of the government and would fall under this legislation.

Hon Mr Stockwell: I can't respond to that right now. We'd have to deal with that when the time comes. Is there a potential? Certainly there could be a potential, yes.

Mrs McLeod: I'm appreciative of the fact that the Ministry of Health has seen fit to send the project manager for air ambulance here, because I think it is a relevant question to this bill, since this is the only essential services legislation, at least semi-essential services legislation, relating to paramedics we have. Since there is in fact a request for proposals out right now to privatize the air ambulance paramedics—

Hon Mr Stockwell: It could happen, is the answer.

Mrs McLeod: If this legislation then—all the questions we're asking have been directed toward land ambulance services.

Hon Mr Stockwell: I understand.

Mrs McLeod: Has this legislation been looked at in terms of its appropriateness and workability for air ambulance services?

Hon Mr Stockwell: Well, yes, it has. We'll have to deal with it when it comes, but certainly there has been that input to the bill, yes.

Mrs McLeod: Are you suggesting there is any jurisdiction—I come back to the question I couldn't get answered about land ambulances. Are you suggesting there's any jurisdiction in the province of Ontario where air ambulances could declare anybody a non-essential service?

Hon Mr Stockwell: I suppose we'll have that discussion if and when that bill comes forward. But right now we have certainly had input from them. Obviously it's not now, and if it is imminently in the future, then we'll have that debate when it comes.

Mrs McLeod: Minister, it's not a future debate. There's a request for proposals out right now to privatize—

Hon Mr Stockwell: I understand that, but right now that isn't the case.

Mrs McLeod: The moment that happens, they would fall under this legislation.

Hon Mr Stockwell: Right. So it is a future debate, the moment that happens in the future. That's a future debate.

Mrs McLeod: But there is no gap between now and then. If the air ambulance service is privatized—

Hon Mr Stockwell: Then we'll have to deal with that.

Mrs McLeod: The question is: if it is, you wouldn't "would have to deal with it." There is no question here. It's a confirmed fact. If the air ambulance service is privatized, those workers immediately fall under this legislation.

Hon Mr Stockwell: There is the capacity to deal with that in the bill.

Mrs McLeod: So they fall under this legislation.

Hon Mr Stockwell: If you want to respond, sir, you can go ahead. The question?

Mrs McLeod: If air ambulance workers are privatized and are no longer employees of the government of Ontario, would they immediately fall under this legislation?

Mr Hill: That's not correct. Subsection 2(4) of the bill indicates that the act does not apply to air ambulance services unless a regulation is made that makes it applicable. So it would not be a case where the act would immediately apply. There would have to be a regulation put in place to do that.

Mrs McLeod: You're saying there would have to be a regulation put in place?

Mr Hill: Yes.

Mrs McLeod: So it would be a regulation under this act?

Mr Hill: That's correct.

Mrs McLeod: So this act would apply.

Mr Hill: If that regulation was made, subject perhaps to some constitutional issues.

Mrs McLeod: That's an interesting question, because if this act should not apply because of constitutional issues and the air ambulance service is privatized, which can happen without any further legislative action at all—if this act doesn't apply to them in a privatized situation, what is their collective bargaining framework? What do they fall under? They can't fall under the Crown Employees Collective Bargaining Act any longer, because they're no longer crown employees.

Mr Hill: If they are federal employees, then they would fall under federal legislation.

Mrs McLeod: No, they're not federal employees if they—

Mr Hill: Excuse me. Federal jurisdiction employees is what I mean.

Mrs McLeod: But they wouldn't be. They'd be privatized. This is an RFP to a private company.

Mr Hill: If there is some constitutional uncertainty as to whether air ambulances fall under provincial labour law jurisdiction or federal labour law jurisdiction—

Mrs McLeod: They are under provincial labour law—

Hon Mr Stockwell: No, no. You see, transportation is a federal issue, right? There is some constitutional argument as to whether, because they're an air ambulance, they fall under federal labour law or provincial labour law.

Mrs McLeod: In the meantime, what happens? You've got two things happening right now. You've got a piece of legislation which allows you to make regulations—

Hon Mr Stockwell: But that wasn't your original question, with great respect. Your question was, does this bill apply to them?

Mrs McLeod: My question was, do air ambulance workers fall under this bill, and they do unless there's a constitutional problem.

Hon Mr Stockwell: Talking to you is like nailing jelly to the wall.

Mrs McLeod: I feel the same way, Minister.

Hon Mr Stockwell: You start off down this road looking for an answer. We give you the answer, and then you go down this road that bears no relationship at all to the first question.

Mrs McLeod: But it does, Minister. It does.

Hon Mr Stockwell: What we're trying to say to you is, there could be a constitutional challenge to the bill with respect to whether air ambulance falls under it. That was your question: does this bill apply to air ambulance?

Mrs McLeod: And the answer is yes.

Hon Mr Stockwell: My response was, maybe yes, maybe no.

Mrs McLeod: And my second question—

Hon Mr Stockwell: Now you're—

Mrs McLeod: Talk about Jell-O.

Hon Mr Stockwell: I can't presume, and I expect you would not want me to presume, what the courts would determine. I would—

Mrs McLeod: Minister, I would presume there's a framework for collective bargaining.

Hon Mr Stockwell: Let me finish. I would expect you not to allow me to presume what the courts would determine, whether air ambulance is a federal jurisdiction or a provincial jurisdiction. Anybody with an ounce of common sense would wait for the courts to rule to determine whether it's a federal issue or a provincial issue.

Mrs McLeod: And any government with—

Hon Mr Stockwell: All I'm suggesting to you is that we don't know.

Mrs McLeod: Minister, any government with an ounce of responsibility would not be looking to privatize air ambulances and take them out of the Crown Employees Collective Bargaining Act, where they're currently covered—

Hon Mr Stockwell: Well, that's a different issue.

Mrs McLeod: No, it's not.

Hon Mr Stockwell: Yes, it is.

Mrs McLeod: Because the answer to my question of whether this act applies to air ambulance workers is that you have a provision in this act to apply through regulation if it's constitutional. My question was: if it's not constitutional, what framework do you have for that bargaining? And there is no answer to that question.

Hon Mr Stockwell: It's not our situation.

Mrs McLeod: Sure it is. You've got the RFP out there.

Hon Mr Stockwell: All right, all right.

The Chair: Further discussion on section 9?

Mr Kormos: Now I'm intrigued. Is the province anticipating a reference on the constitutionality of a regulation provided for in the statute?

Ms Mill: This isn't an issue that is before us right now, in terms of trying to determine whether they fall under this bill. At the time, if that should come, if this bill were to pass, if that situation should arise and we look at developing a regulation, one of the things we would do in developing a regulation is ensure it is within our jurisdiction to make it.

Mr Kormos: As I understand the explanations to this point, the bill contemplates incorporating air ambulance workers by regulation, subject to the constitutionality of doing that. Is that correct?

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Mr Hill: Yes, that's correct. The bill makes that possible, subject to the constitutional considerations.

Mr Kormos: There, Ms McLeod. That wasn't that hard. Clearly the authors of the bill contemplate the bill applying to air ambulance workers, and they're going to leave it up to air ambulance workers or their representatives to challenge the constitutionality of it.

Hon Mr Stockwell: With great respect to the members, I don't think that's a question the staff can answer.

All they do is draft the bill. The intent of the bill is that should this necessarily have to become applicable to air ambulance, we've drafted it accordingly. But we don't know whether it will be or won't be, depending on jurisdiction. That's what I said about five minutes ago.

Mr Kormos: That wasn't Jell-O, Ms McLeod.

Hon Mr Stockwell: But about five minutes ago, that's what I said, Mr Kormos, had you been intrigued at that point.

The Chair: We're debating section 9 of the bill. Is there any further discussion of section 9 of this legislation? Shall I pose the question?

Mr Agostino: Recorded vote.

The Chair: I hear a request for a recorded vote.

Ayes

Miller, Molinari, Mushinski, Wettlaufer.

Nays

Agostino, Kormos, McLeod.

The Chair: I declare section 9 carried.

I now open it up to further debate.

Mr Agostino: I move that section 9.1 be added. I move that the bill be amended by adding the following section:

"Referral to arbitration

"9.1(1) Upon the application of either party, or on its own initiative when an application has been made under section 9, the board may order that all matters remaining in dispute between the parties be referred to an arbitrator for final and binding interest arbitration.

"When board may make order

"(2) The board may make an order under subsection (1) if it is satisfied that any essential ambulance services agreement that could be made by or for the parties in accordance with this act would necessarily have the effect described in clause 18(1)(a) or (b).

"Application of sections 19 to 22

"(3) When the board makes an order under subsection (1), sections 19, 20, 21 and 22 apply."

What this amendment would do is provide the board with a direct mechanism to send all matters in dispute to binding interest arbitration. As an example, the bargaining unit employer cannot settle an essential services agreement and apply to a board for help under section 9. With this amendment, if the board sets an essential services agreement and determines immediately that no meaningful right to strike can occur, the board may send all matters in dispute to binding interest arbitration. This would eliminate hoops which both parties would have to jump through in order to receive the determination of no meaningful right to strike, and if you look at section 18, there's a whole ton of them out there. This would make it a much cleaner process. It would eliminate much of the delay. It would allow for a much more fair interest arbitration on this, rather than this whole sort of

regulation under section 18 or sections that would have to be considered in getting this agreement.

With this amendment, I believe it would resolve the issue much quicker. It really would, because if you cannot get an essential agreement between the parties, then it's determined 100% of the folks would have to be working and cannot be out on strike, and there would still be all these other hoops that have to be cleared. This would eliminate that and would go a significant way toward improving this legislation.

The Chair: We have a motion to amend this bill by adding a new section. Further discussion or debate? Mr Stockwell, did you—

Hon Mr Stockwell: Yes, it would be—

The Chair: And then Mrs McLeod?

Mrs McLeod: I actually wanted to ask for the minister's response to the amendment.

Hon Mr Stockwell: You want my response? It would be premature. This would put everyone in the unusual situation of going to arbitration before they had an essential services agreement, which is truly the cart before the horse. Would it speed things up? Well, sure it would speed things up. You could do this at any point in the process. Let's not even bother collectively bargaining. Let's not bother getting an essential services agreement. Let's just punt everything off to the OLRB and you'll get a decision quickly. It isn't necessarily a good one or hasn't allowed the parties to actually go through the process of negotiating, which is patently absurd. So my response is it's putting the cart before the horse with respect to applying the OLRB before you even actually negotiate an essential services agreement.

Mr Agostino: Obviously, if you cannot get an agreement between the two sides, then no one can go out because 100% of the folks are needed. In that situation, a number of steps would still have to be taken by the board, or it would request a number of steps before a meaningful right to strike is declared or not declared. This would eliminate many of those. It would be much closer to a fair process for a real interest arbitration mechanism than is in the legislation now. It would go a lot closer to matching what is now in place for other folks who are under the same type of jurisdiction as true essential services. This would make it a much more clean and a much more, in my view, effective way of getting an agreement than what is in place right now.

Mrs McLeod: Minister, you've said on a number of occasions, both today and in the House, that you believe there are some situations in which there would not be a large enough unit. We disagree on whether there are any, but you at least have acknowledged that there are some situations in which you could not sustain a meaningful right to strike. What we're trying to do with this amendment is say OK, where the labour relations board says there is no meaningful right to strike and it's obvious there can't be a meaningful right to strike, give the labour board the power to send that directly to arbitration.

You said in the House that your legislation, you believe, has provided a direct route to arbitration—at

least that was my interpretation of what you said—where there is no meaningful right to strike. I just think that this amendment puts that statement that you've made in good faith.

Hon Mr Stockwell: I think it is in good faith. All it's requesting the parties do is try and negotiate an essential services agreement before they get to that stage. What you're saying is just go directly to that stage. I think it's healthy to have a—

Mrs McLeod: Where everybody acknowledges that there is no possibility.

Hon Mr Stockwell: What I'd like to see is that if that's the case, then they'll be referred very quickly to the OLRB, if everyone acknowledges that. It would take just that long. If both parties agree, it's not going to take long to get the OLRB to declare there's no meaningful right to strike, but if one party agrees and the other party doesn't agree, then they're going to have to go through the process of negotiating an essential services agreement. Under yours, it's just referred to by one side or the other.

Mrs McLeod: And the labour relations board has to rule on it.

Hon Mr Stockwell: But I always think it's important to have those kinds of negotiations before you get to the OLRB. I think it is always very helpful.

Mrs McLeod: No, collective bargaining negotiations are presumably about wages and benefits, not about whether or not you maintain an essential service.

Hon Mr Stockwell: Oh, no, no. There are many times where you would negotiate an essential services agreement.

Mrs McLeod: Under your legislation, there is.

Hon Mr Stockwell: Yes.

Mrs McLeod: That's where we're disagreeing.

Hon Mr Stockwell: I think before you allow one party to refer it, you should have some process to negotiate. If both parties want to refer it, then it's going to go in a heartbeat.

Mr Agostino: But part of what you now have in here is if the application is made, the board may amend the agreement, may direct the parties to continue negotiations for a collective agreement, even if the two sides have said, "We can't come to this." Why not put in a mechanism that would send it directly, without the board, and still have the flexibility? If both parties came, the board would still have the flexibility to go back and say to continue negotiating. Under your legislation, they still would have that power, correct?

Hon Mr Stockwell: To the member, if the board is hearing a case where both parties agree, if there's no meaningful right to strike and they can't get a meaningful right to strike, it's just very quick. The board's going to say, "OK, fine."

Mr Agostino: But they can also say, "Now go back and continue negotiating."

Hon Mr Stockwell: Well, sure they can, but if both parties—

Mr Agostino: Then why would you put that in your legislation?

Hon Mr Stockwell: Let me finish. If both parties, the union and the employer, come forward and say, "We don't have a meaningful right to strike. We need to be referred to arbitration," that's a 15-minute hearing.

Mr Agostino: Why would you not put that in there?

Hon Mr Stockwell: Because that's the process. We want to at least have the process put in place that you negotiate an essential services agreement. If you can't negotiate an essential services agreement, we need a quasi-judicial third party to hear the case, which is the Ontario Labour Relations Board.

If I tried this in any other piece of legislation, to do it the way you'd do it, you'd claim that I'm some kind of draconian—over-the-top, rhetorical hyperbole would be spewing from the mouths of the opposition, claiming that I'm usurping the process. I don't want to usurp the process.

Mr Agostino: But right now, if the two parties come forward and say, "We'd like to go to binding arbitration on this"—

Hon Mr Stockwell: Fifteen minutes at the OLRB.

Mr Agostino: OK. But right now your legislation, as it's written—and that's what I'm basing it on. The good faith is cute and warm and fuzzy, but it really doesn't mean anything when it goes before the board. Your legislation now says the board may amend the agreement, may direct the parties to continue negotiations, may direct the parties to confirm a mediator and so on. And that could still happen. In your legislation, the board still has the power to do that. Based on the folks you appoint to that board, it could happen.

Hon Mr Stockwell: Dominic, if there's a dispute, the board has those powers. If one party says, "We can't get an essential services agreement. We have no meaningful right to strike," and the other party says, "Yes, we can," that's called a dispute. That means the board has powers to try and settle that dispute.

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If both parties come forward like you're contemplating and the union says, "We don't have a meaningful right to strike," and the employer says, "We don't have a meaningful right to strike," they're not going to implement all these plans. They're going to say, "There's no meaningful right to strike. Both parties agree. We'll refer you."

Mr Agostino: If you're that convinced, why would you not put that in legislation?

Hon Mr Stockwell: Because I don't want to usurp the process. Every time I try and—

Mr Agostino: It's an essential service we're talking about.

Hon Mr Stockwell: Every time I try and change the process, you stand up and say I'm paying off my capitalist friends. I don't want to go ahead and change the process here. This is the process. If it takes 15 minutes for a hearing to be referred, let's maintain the process.

Mr Agostino: We can debate this forever, but there still are some mechanisms in here that if both parties

come—what our amendment would do is immediately send it to binding arbitration. Once it is clear—

Hon Mr Stockwell: No, your mechanism doesn't do that at all. It could allow the OLRB to simply refer it. You're just saying refer directly to arbitration even if there's a dispute. Understand what your amendment says. That's not right. If you've got a dispute, you've got to have it adjudicated by a third party, the OLRB. Your amendment says if one party says, "We want to go to binding arbitration," it really doesn't matter what the other party says. You can't honestly believe that as a Liberal.

Mr Agostino: Again, section 9.1 would bring this much closer to par to what is there now with the other declared essential services you have. That's the bottom line. That's in effect what it would do.

Hon Mr Stockwell: Yours does a lot more than that.

Mr Agostino: It would bring it much closer to that.

Hon Mr Stockwell: Your amendment does a heck of a lot more than that. It usurps the process.

Mr Agostino: Your legislation now still allows, with an agreement, a possibility that it could be delayed rather than going directly to arbitration.

Hon Mr Stockwell: Yours does a lot more than that. It usurps—

Mr Agostino: It brings it a lot closer to what other essential services have right now.

Hon Mr Stockwell: I'll tell you, I think you're treading on thin ice if you're going to start bypassing the Ontario Labour Relations Board when it comes to dispute mechanism settlement issues, ESAs, arbitrated settlements and grievances. If you can now just shoot off to the arbitrator without going to the OLRB, you're setting a very dangerous precedent.

Mr Agostino: I appreciate what the minister has said but certainly I think we don't have to take any lessons from this government in protecting the rights of workers and their right to a fair process in Ontario based on what they've done the last six years.

Hon Mr Stockwell: Go back to the rhetoric if you haven't got a good debate.

The Chair: Any further discussion?

Mrs McLeod: The minister is somewhat provocative, to say the least. The reason we are attempting—

Hon Mr Stockwell: You haven't been provocative?

Mrs McLeod: At least not in a personal sense. Asking you for information that you don't have I don't think is provocative.

Hon Mr Stockwell: The comment wasn't provocative either.

Mrs McLeod: The problem is that we really should have essential services legislation in front of us and then it would be abundantly clear as to how the dispute process is handled. The minister is talking about not interfering in the dispute process in a piece of legislation in which there is, again, neither a meaningful right to strike nor a fair dispute resolution process. We would like to make amendments that would make it much clearer that we are dealing with an essential service and

that they should have a fair dispute resolution process which is to go quickly to arbitration.

Mr Kormos: I'm suggesting that this amendment be deferred. It amends the bill, not a section. Quite frankly, my interest in the amendment is very dependent upon the success of amendments that amend the arbitration process. I support this proposition, assuming that it is not the arbitration process that the minister is imposing upon paramedics, assuming that it is indeed a true arbitration process. I'm moving that consideration of this amendment be deferred until the end of the bill.

Mr Agostino: I'd be happy to support that, but premised on the fact that the other amendments that are coming later as to the process would be acceptable. I'm very comfortable with that. Of course, if that is not the case—under the current system we've got in place, yes, this would not be workable, it would not be fair. But if the other amendments that are in place here would carry through on amending the process, then we could support that. I'm comfortable with what Mr Kormos has proposed.

The Chair: We have a proposal to stand down this amendment until which time, I'm sorry?

Hon Mr Stockwell: I don't care.

Mr Kormos: Until the other amendments have been considered.

The Chair: To stand this down, we would need unanimous consent. Agreed. We'll stand this motion down.

There are two options here. I could move to section 10 for debate or, oftentimes in keeping with protocol, I could collapse several sections.

Hon Mr Stockwell: What time are we out of here?

The Chair: According to our schedule, we are taking a break at 12 o'clock. We return at 3:30.

Hon Mr Stockwell: Could we adjourn now? Do you want to adjourn now—there are two minutes—instead of starting a new section?

Mrs McLeod: I believe the next amendments relate to section 18. I'm not sure that we couldn't cover some ground.

Mr Kormos: We could do several of the subsequent sections, beginning with section 10.

The Chair: As opposed to collapsing sections?

Mr Kormos: Yes, 10, 11, 12, in order, for example.

The Chair: What we could do is collapse section 10 right through to section 17 and vote on them. Are we amenable to that approach? Shall I pose the question?

Mr Kormos: Recorded vote.

The Chair: Shall section 10 right through to section 17 carry?

Ayes

Miller, Molinari, Mushinski, Wettlaufer.

Nays

Agostino, Kormos, McLeod.

The Chair: Before we go to section 18 and in keeping with the published agenda, I would suggest we break and return at 3:30.

This meeting is adjourned.

The committee recessed from 1157 to 1534.

The Chair: I welcome committee members back for continuation of clause-by-clause of Bill 58, the Ambulance Services Collective Bargaining Act, 2001. I think we are all aware this is time-allocated: "That at 4:30 ... those amendments which have not been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto."

Continuing the work of this morning—

Mrs McLeod: May I ask if we are expecting the minister to join us again this afternoon?

Mr Agostino: The minister is outside. I think we should wait a few minutes for him to get back in here.

The Chair: Just continuing the work of this morning, we completed debate and voting on up to and including section 17. I would now ask the committee to turn its attention to section 18 of this legislation and I would ask for debate or entertain any motions of amendments.

Mr Agostino: I move that section 18 of the bill be amended by striking out subsection (2).

Hon Mr Stockwell: May I ask a question of procedure? Will we take these amendments in order as they come up or will we take them by party? Is the Liberal one next or is it the Conservative one?

Mrs McLeod: The Liberal one is next in order.

Hon Mr Stockwell: Subsection 18(6) I have. Is that wrong? I thought it was 18(5).

Mr Kormos: On a point of order, Mr Chair: We have very limited time. If the government has motions that it wants to move out of order, I'm prepared to give unanimous consent. I know that number 20 in your package of motions, an NDP motion, I'd very much like to see moved. I would similarly, if the government has motions it would like to see moved, be prepared to give unanimous consent. I trust the Liberals may be in the same position.

Mrs McLeod: Not at this point, I don't think, Mr Chair, because the amendments to section 18 are ones that we very much want to have discussed because they are fairly crucial in terms of whether this bill does what the minister says it does or whether it does exactly the opposite.

Hon Mr Stockwell: So we'll go forward on that basis.

Mr Agostino: I move that section 18 of the bill be amended by striking out subsection (2).

This is tied into our previous motion that's been referred to later, at the end of the debate, in regard to the process for binding arbitration. This amendment will eliminate the board's requirement to determine if sufficient time has elapsed in the dispute before declaring an absence of the meaningful right to strike. Again, what this would do is bring it closer in line to a true process

where the declaration of "meaningful right to strike" would then allow an arbitration process to kick in that is fair, adequate and would address the needs. This amendment is supported by the paramedics. We've consulted with them on it. It does make sense.

The rest of 18 has similar ideas, where it would eliminate sections of this that I see now as roadblocks and certainly would go a long way toward making it a much fairer process.

Mrs McLeod: I just wanted to add to that. I appreciate the fact that what Mr Kormos has suggested we do is that any of the amendments that refer to an arbitration process might be deferred in terms of a vote until we can determine whether or not the arbitration process is going to be fair. I appreciate you may want to make that recommendation here, but I think it's important as we go along to recognize why this bill does not in fact do what the minister says it does.

Minister, you've said repeatedly that the reason this bill is here is because you have to protect the public interest in the event that there should be any labour disruption that involves paramedics, which we believe to be an essential service. The legal reading that has been given to this subsection of the bill, 18(2), is that in fact what this section does is virtually force a strike to take place before there can be any referral to arbitration. That's why we've moved the amendment we have. We don't like the arbitration process you've put in place. We don't like the fact that you've not declared paramedics to be an essential service and send it directly to binding arbitration. But we think it is highly ironic that there would be a subsection in this bill that actually forces paramedics to go on strike before they can get to arbitration. Therefore, we're trusting that you will support this amendment.

Hon Mr Stockwell: Let me just be clear about the legislation, and I've not seen your legal opinion with respect to that interpretation.

Mrs McLeod: This is a legal opinion that's been given to the paramedics, and we've heard that directly as legal opinion.

Hon Mr Stockwell: I don't dispute the fact that there may well be a legal opinion out there that may say that. I've never seen it, so I can't very well comment on a legal opinion that I don't have in front of me. I will say that where the confusion may be—and let me be clear: it's been through the legal processes in the government etc—is that you can't strike until you have an essential services agreement, as the bill reads. Therefore, you may be in a strike position but you aren't allowed to actually withdraw services until you have an essential services agreement. Thereby, by having an essential services agreement, it precludes the fact that the paramedics would go on strike. It's kind of the domino effect: you begin collective bargaining, you have a strike vote, the strike vote's taken, you succeed; then you move on to negotiations, and then the union says, "OK, we're going to go out on strike on this date." The strike cannot occur until there's an essential services agreement in place.

1540

Mrs McLeod: I appreciate that. This clause goes beyond that and says that the labour relations board has to determine that a sufficient time has elapsed in the dispute before you can essentially send this to arbitration.

I appreciate the fact that your meeting with the paramedics didn't take place until yesterday afternoon, but I'm sure they must have raised this as a concern with you, because this has been one of the real flashpoints in this legislation for them.

Hon Mr Stockwell: I don't think they did, actually.

Mrs McLeod: I'm more than a little surprised, since they say that this challenges the whole reason that you've brought the legislation forward. You don't want, surely, to force paramedics to go out on strike in order to get a fair hearing.

Hon Mr Stockwell: With great respect, it doesn't. I can only say that. The bill doesn't do that. You're trying to correct a problem that doesn't exist within the bill. By trying to correct this problem, also, you've created a situation where in the fluid process of negotiations you will not allow the Ontario Labour Relations Board to take into consideration any other factors in making their decision, which is very restrictive. In most cases, in practically all cases, the Ontario Labour Relations Board is given the free right to take into consideration other factors. There's a whole series of issues that are in place.

Mrs McLeod: Minister, it's your legislation that has prescribed what the labour relations board must do.

Hon Mr Stockwell: I understand that.

Mrs McLeod: The only thing that we're suggesting—

Hon Mr Stockwell: The point I'm trying to make is, you're trying to correct a situation that doesn't exist.

Mrs McLeod: That's not what the legal opinion given to paramedics says.

Hon Mr Stockwell: I appreciate that, but I've never been given a copy of that legal interpretation—

Mrs McLeod: Have you asked?

Hon Mr Stockwell: I've never seen it. I didn't ask, no. But this is the assertion that's being made. We have canvassed this across the government lawyers and their interpretation is that, no, a strike of paramedics may not take place. They cannot go out on strike, simply put—

Mrs McLeod: Unless they have an essential services agreement.

Hon Mr Stockwell: Ideally, if they have an essential services agreement, then the essential service is provided, and then a strike may take place. So the paramedics who are described as essential can't go on strike.

Mrs McLeod: So in fact for all other paramedics, although we still contend that there won't be any other paramedics, you haven't given them a right to strike. But what this clause does is say that those paramedics who might conceivably be described as non-essential and would be allowed to strike, that that strike has to take place before there can be any further referral by the labour relations board to arbitration.

Hon Mr Stockwell: No, that's just not the case. I don't know any other way of responding. No, that wouldn't happen.

Mr Kormos: Chair, I have a copy of the Sack Goldblatt Mitchell analysis of the bill that was made available to the public earlier this week. Perhaps a five-minute adjournment so the minister could read it? Unanimous consent?

Hon Mr Stockwell: I feel comfortable with the legal advice I've gotten from the ministry officials.

Mr Kormos: It hasn't served you so very well so far.

The Chair: Is there any further debate? We have an amendment before us moved by Mr Agostino. Seeing no further debate, shall I put the question?

Mr Agostino: Recorded vote.

Ayes

Agostino, Kormos, McLeod.

Nays

Molinari, Mushinski, Wood.

Mr Kormos: Chair, I withdraw what I suggested earlier. There's no need for a five-minute adjournment because the minister got this legal opinion from Brian O'Keefe of CUPE and some of his people yesterday.

Hon Mr Stockwell: I didn't understand that was the legal opinion you were speaking of. If that was the legal—

Mr Kormos: Of Sack Goldblatt Mitchell.

Hon Mr Stockwell: I appreciate that. I understood that they had some legal opinion they had gotten weeks ago that they were referring to. I received that I think yesterday. I didn't realize it was the same one. I apologize.

Mr Kormos: Have you read it?

Hon Mr Stockwell: Yes, I read it.

The Chair: As Chair, I wish to interrupt. I called a vote on the amendment—defeated. I declare that order of business closed.

Ms Marilyn Mushinski (Scarborough Centre): Chair, I'd like to call a five-minute recess.

Mr Kormos: Chair, this is valuable time, for Pete's sake.

Ms Mushinski: Chairman, I've asked if we could have a five-minute recess, please.

Mr Kormos: OK, fine. But this is valuable time. It's time-allocated.

Mrs McLeod: There needs to be a reason.

The Chair: I just turned down a five-minute recess a minute ago.

Mr Kormos: Chair, this is time-allocated. You've got a responsibility to move it along. Never mind public hearings, these people are being denied clause-by-clause consultations. Chair, a little less partisanship, please.

The Chair: I have not made a decision on either, and I do not wish to grant the recess.

Ms Mushinski: Chair, I withdraw my request.

Interjection.

The Chair: Continuing debate on section 18, are there any further motions for amendments?

Mr Agostino: I move that section 18 of the bill be amended by striking out subsection (3).

In line with what we said earlier, this subsection, if it's eliminated, would eliminate the board's ability to defer making that decision on the application to a later date. Again, this would allow the process to be smoother, to make it a fairer process. The same rationale that will be applied to many of these amendments applies here. I'm trying to understand the rationale of why they would give the board the ability to defer making a decision on the application on this to a later date.

Hon Mr Stockwell: The simple fact is that sometimes at the Ontario Labour Relations Board all the information isn't available at the time. So sometimes they ask for a deferral or a period of time granted to wait until they make a decision so they can access some of the information they're missing. If you force them to make a decision, they could be making a decision on incomplete information. That's why that legislation would be difficult to accept, because in most applications before the board they have the right to defer a decision (a) to write their decision sometimes, but (b) in many instances, to get information that they don't have that is germane to the decision-making process.

Mr Agostino: Chair, I guess this applies to all of these. This is a different scenario than we would have in most cases that go to the board. This is talking about paramedics. This is talking about essential services. This is talking about a partial right to strike or not strike and a ruling in that favour one way or another as we're dealing with paramedics. So this is totally different. A delay in this thing, in my view, would be unacceptable. This is not the same situation as would apply to other cases that would go before the board, because most of them do not apply to essential services and life-saving services that would apply in this particular case. This is why I think it is different and has to be treated differently. That's why the amendment's there.

Hon Mr Stockwell: We think on the other side of the House that it's important to get all the information before a quasi-judicial board makes a decision.

The Chair: Any further debate?

We have a motion on the floor from Mr Agostino. This is the motion on page 5. Shall I put the question?

Mr Agostino: A recorded vote.

Mr Kormos: A recorded vote.

Ayes

Agostino, Kormos, McLeod.

Nays

Miller, Molinari, Mushinski, Wood.

The Chair: I declare that amendment lost.

Further amendments?

Mrs Molinari: I move that subsection 18(5) of the bill be struck out and the following substituted:

"Restriction

"(5) The board shall not issue a declaration under subsection (1) if at least 75% of the employees in the bargaining unit or, if a percentage other than 75% is prescribed, the prescribed percentage of the employees in the bargaining unit may strike or be locked out despite the essential ambulance services agreement.

"Same

"(5.1) For greater clarity,

"(a) nothing in subsection (5) requires the board to issue a declaration if the number of employees who may strike or be locked out under the essential ambulance services agreement represents less than 75%, or such other percentage as is prescribed, of the employees in the bargaining unit; and

"(b) the board shall not issue a declaration unless it finds that, because of the number of employees referred to in clause (a), the employees are deprived of a meaningful right to strike or the employer is deprived of a meaningful right to lock the employees out."

I defer the questions to the minister.

1550

The Chair: We have a motion for an amendment. Any debate on this amendment?

Mrs McLeod: I would ask the minister to comment again. This morning he indicated that there were a couple of amendments here that he felt would be acceptable to the paramedics as minor changes to the legislation, so if he would like to explain not only the amendment, but in what way it responds to the paramedics, so the people here are quite clear about it.

Hon Mr Stockwell: This isn't one of them. Basically, what this does is provide flexibility for the Ontario Labour Relations Board to determine in their mind whether or not a meaningful right to strike exists. So we're basically saying where it's 75% and over, there truly is a meaningful right to strike, but we're going to leave it up to the discretion of the board to determine if it exists in any other instances. Rather than prescribing it by legislation, we're giving the authority to the Ontario Labour Relations Board to make those kinds of decisions.

Mrs McLeod: I keep coming back to how inconceivable it is that any of this could ever actually be applied in any given situation. There are no situations in which you're going to be able to pull this number of paramedics off the ambulance service. It's just not real—

Hon Mr Stockwell: No, I don't want to—

Mrs McLeod: So we're still dealing only with those situations in which it's not a free-standing paramedic group, right?

Hon Mr Stockwell: Right, exactly.

Mrs McLeod: You've essentially brought this whole piece of legislation in to deal with one circumstance, and it doesn't deal with it particularly well—

Hon Mr Stockwell: That's your interpretation.

Mrs McLeod: —and it's created consternation and instability among the entire rest of the paramedic service.

Hon Mr Stockwell: Again, that's your take on the bill; it's not my take. This doesn't apply to the units that are just dealt with in paramedics. It applies to those that are part of a broader union—CUPE, OPSEU, those kinds of situations where there's a bigger union than just the paramedics.

Mrs McLeod: And because you weren't prepared to actually declare paramedics an essential service, we have to have this kind of tortuous clause.

Hon Mr Stockwell: We're revisiting another debate that we had this morning and that was—

Mrs McLeod: I appreciate your saying this is not something that was recommended by the paramedics.

Hon Mr Stockwell: No, it wasn't. This basically is the thrust of the bill that they're opposed to.

The Chair: Any further debate? We have a motion for amendment, found on page 6, moved by Mrs Molinari. Shall I put the question?

Interjection: Recorded vote.

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, Kormos, McLeod.

The Chair: I declare the amendment carried.

Continuing debate on this same section, section 18, are there any further motions for amendment?

Mr Agostino: I move that section 18 of the bill be amended by striking out subsection (6). This will make it a requirement of the board to determine all additional factors set out in regulation before making a declaration of no meaningful right to strike. The important thing here is that the regulations are not in place. Regulations could be put in place by the government at any time with regard to this. The concern is that, your government, with this particular part, will set out the regulations, and those regulations will, to a great degree, influence the decisions. I'm wondering what type of additional factors or regulations you would envision in place as a result of this.

Hon Mr Stockwell: I guess the thing is that every bill, by legislation, has a regulatory part to it. Regulations are orders in council that go through. The rationale, obviously, is you have your legislation and then you have regulations that form part of the bill or give action to the bill. Right now we have no idea what those regulations would include, but there could be circumstances where the Ontario Labour Relations Board would want to include or consider other parts in their decision-making process. We would have to put that through by regulation. The act would give us the authority to do that.

Mr Agostino: But as it relates to making a decision or a declaration of no meaningful right to strike—as

important as it is to the aspect of the paramedics—what you're really asking for is a blank cheque to put in whatever regulations you want that may stack the deck against the paramedics. This refers specifically—because we're talking about the declaration of no meaningful right to strike, which is essential here and important. Your regulations could clearly stack the deck, and what you're saying here is whatever regulation you bring in beyond what is there now, the board has to consider that before you make a declaration of no meaningful right to strike.

Hon Mr Stockwell: But if we adopt your proposed amendment, it wouldn't allow the board to accept any different arguments, any new processes or any new factors. Those factors could be, depending on who is making the argument, beneficial to the union or beneficial to the employer. This just allows us, by regulation, to allow the OLRB to consider those arguments.

Mrs McLeod: Actually, it allows you, by regulation, to direct the OLRB. Nothing in this bill or any other bill that I'm aware of limits the OLRB from whatever factors they choose to consider.

Hon Mr Stockwell: If you did it your way, they wouldn't be allowed to consider anything, even if it was a considered, thoughtful approach where both parties said, "Gee, this should be part of the process; we should consider this in the decision-making." If we passed yours, we couldn't do it. What we're saying is if you don't pass it and allow the regulation to stand, that if both parties came to us and said, "Look, we should consider this as part of the process," then we could pass a regulation to allow them to do that. If we passed your amendment, we couldn't.

Mrs McLeod: Obviously, we're going to have a succession of stalemates here because we believe so strongly that there should be essential services legislation, it should go to binding arbitration in a fair process and, therefore, we're going to have a problem with anything, as do the paramedics, that sets up a different kind of process.

Hon Mr Stockwell: I'm just trying to respond to your amendment in a very sincere and honest fashion, that's all.

The Chair: Any further debate? Seeing no further debate—

Mr Agostino: Recorded vote, please.

The Chair: We're voting on a motion by Mr Agostino. It's found on page 7.

Ayes

Agostino, Kormos, McLeod.

Nays

Miller, Molinari, Mushinski, Wood.

The Chair: I declare the motion lost.

Continuing debate on section 18, are there any further amendments?

Mr Agostino: I move that subsection 18(7) of the bill be amended by striking out clauses (a), (b) and (c).

This would eliminate the requirement of the board, upon application for a declaration of no meaningful right to strike, to consider amending the essential services agreement to direct the parties to continue negotiations for a collective agreement and to direct the parties to confer with a mediator. Among other things, this is identical, I think, to the government amendment, which is next.

Hon Mr Stockwell: No, it's not.

Mr Agostino: OK. I would move that. Again, it's explanatory, and I don't know if we need another debate on this. But this would eliminate certain factors that are now in place. Once it's gone to the board for a decision with regard to the no meaningful right to strike declaration, rather than be directed back to continue to negotiate or to appoint a mediator or amend the agreement, we believe at that point they should go automatically to an arbitrator.

Hon Mr Stockwell: The rationale here is that the Ontario Labour Relations Board has the power in a number of acts to, rather than refer matters off, seek direction to the parties to try and mediate an agreement. The rationale is the Ontario Labour Relations Board has adopted a principle, and I suppose it's a principle adopted by all unions and employers, that a collectively bargained agreement is better than anything else. In this situation, it just allows the Ontario Labour Relations Board, that independent third party, to say, "Look, you guys could get a deal here if you just try and put your heads together. Why don't we refer you off and see if you can get it? If you can't, then obviously you can come back and we'll go through that process. But we think you're close to a deal." In most instances in all labour relations, it's a power the OLRB has.

Mr Agostino: I think we keep going back to the same philosophical disagreement here, that the minister and this government believe that you treat paramedics the same way as other workers when it comes to this aspect, as generally not essential workers. It's cute and lovely when you're talking about a strike, as difficult as that is, in a non-essential sector, but when you're talking about paramedics, and the potential for deaths and tragedies that could occur as a result of not having the full service, the impact it could have, the potential or non-potential strikes that would occur, this is where I think we substantially differ from the government. Because the right to strike is limited or non-existent here, because their service is as essential as firefighters and police officers, we believe you can't treat this group of employees as you would others whose jobs may not be regarded as essential with regard to the safety, health and well-being of Ontarians. But that's what you're doing. You're locking them all into the same process literally and saying, "Well, maybe you should go back and chat a little more. Maybe we can straighten this out."

1600

What we're saying is, once it gets to that stage, you should have a mechanism that goes to the next step with binding arbitration and get on with it. There's a real difference here, because we believe they are essential, they should be treated as essential and there has to be a special protection here given to them because of what is their unique circumstance with regard to the health and safety and the well-being of Ontarians. Again, we're having this argument on every case, but it's the same philosophical difference here. We believe they're essential; you do in lip service, but not in legislation.

Hon Mr Stockwell: These would still be referred to arbitration if they couldn't reach an agreement. It's just in the rare circumstances when the Ontario Labour Relations Board feels there is potential for an agreement. If they still couldn't reach an agreement, they would still be referred for arbitration.

Mr Agostino: Later.

Hon Mr Stockwell: Yes, but this happens at the Ontario Labour Relations Board every day.

Mr Agostino: But they're not paramedics that go there every day.

Hon Mr Stockwell: Well, it could be a whole range of people who go there every day.

The Chair: Any further debate on this motion? This is the motion by Mr Agostino, an amendment found on page 8. Shall I call the vote?

Mr Agostino: Recorded vote.

Ayes

Agostino, Kormos, McLeod.

Nays

Miller, Molinari, Mushinski, Wood.

The Chair: I declare the amendment lost. I would ask for any further amendments.

Mrs Molinari: I move that clause 18(7)(d) of the bill be struck out and the following substituted:

"(d) order that the bargaining unit be divided into two units, one consisting of employees who are ambulance workers and the other consisting of employees who are not ambulance workers, and that all matters remaining in dispute between the parties with respect to the ambulance workers be referred to an arbitrator for final and binding interest arbitration."

Hon Mr Stockwell: Just a brief explanation. This is one of those amendments that we spoke about and they asked us to move. What this circumstance would entail would be if they didn't determine there wasn't a meaningful right to strike in some area and the bargaining unit consists of paramedics and some number of other outside employees or union employees, then they would have to refer the paramedics to binding arbitration, thereby creating an essential service designation. The fear was that they would also have to take all those other workers

and refer them to arbitration and we would take away their right to strike. This severs the agreement so that they can in fact do their process and go on strike if they want, but the essential services agreement would kick in and the paramedics would go to binding arbitration.

Mrs McLeod: How many free-standing—

Hon Mr Stockwell: About 120 employees are affected, I think.

Mrs McLeod: So all the rest of the paramedics in the province, other than 120 paramedics—

Hon Mr Stockwell: No, no, no. The effect of this amendment?

Mrs McLeod: Yes.

Hon Mr Stockwell: It affects basically about 120 employees who aren't paramedics who would retain the right to strike. That's what this amendment does.

Mrs McLeod: So this amendment applies to situations in which there are workers other than paramedics in a bargaining unit?

Hon Mr Stockwell: Right.

Mrs McLeod: My question was how many situations exist in which the paramedics are not in free-standing bargaining units?

Hon Mr Stockwell: There are 219 paramedics and 119 non-ambulance workers—I said 120.

Mrs McLeod: Units? I'm talking about bargaining units.

Hon Mr Stockwell: I can tell you the number of actual members involved. It would be a small number, because—

Mrs McLeod: But we're talking about collective bargaining. People don't bargain as individuals; they bargain as bargaining units.

Hon Mr Stockwell: No, I know, but 119 would—

Mrs McLeod: How many bargaining units are actually affected by this amendment?

Hon Mr Stockwell: There could be an answer. Let me just check. I'll tell you the numbers, though. It's 119 non-ambulance workers and about 199 ambulance workers. There are about 40 stand-alone and about 10 combined; of that 10, 119 would include non-ambulance workers who would retain the right to strike and 199 would be ambulance workers.

Mrs McLeod: So it's 40 and 19?

Hon Mr Stockwell: It's 40 stand-alone units—directly stand-alone, no discussion—and 10.

Mrs McLeod: It's 40 and 10. So you're saying that in 10 situations, paramedics are to be separated out and considered to be an essential service and they would not go on strike like the others would.

Hon Mr Stockwell: This is by request of the unions.

Mrs McLeod: I understand.

Hon Mr Stockwell: It wasn't my amendment. This was the unions' amendment.

Mrs McLeod: I'm not necessarily arguing against the amendment. What I'm arguing against is leaving—

Interruption.

Hon Mr Stockwell: Yes, it was.

Mrs McLeod: I hear some—

Hon Mr Stockwell: Well, they can murmur. We had the meeting two days ago and that's what they brought up as a case.

Mrs McLeod: At the moment, that is not my question to you, if I may. I wish you had had that discussion with the paramedics much before this legislation came in so you would know whether they're murmuring and whether this in fact—

Hon Mr Stockwell: I did have that discussion with the paramedics two days ago.

Interruption.

Hon Mr Stockwell: I don't know what Mr Ryan—he's out of order, I'm fairly sure he is. But he wasn't there.

Mrs McLeod: May I ask, you brought in an amendment today recognizing that one of the flaws in your bill is that where you have—you're recognizing it—

Hon Mr Stockwell: Let me say—

Mrs McLeod: No, let me finish my question.

Hon Mr Stockwell: But if we don't consider it a flaw—

Mrs McLeod: Well, I'm sorry, but if you're bringing in an amendment it's because there's something amiss in your legislation.

Hon Mr Stockwell: No, it was a request by them.

Mrs McLeod: Let me just take another try at this. You have agreed that in the case of 10—

Interruption.

Hon Mr Stockwell: Yes, you did.

The Chair: Mr Stockwell, don't communicate with the visitors, please.

Mrs McLeod: I would really appreciate, given the passage of time, if the minister would be prepared to address my question. You have an amendment before us.

Hon Mr Stockwell: I'm not used to being heckled by the audience.

Mrs McLeod: No, right. Whether you want to do this or whether you're being forced to it by your attempts to mollify the paramedics, leave that aside. You have brought forward an amendment that says in 10 situations in this province you're prepared to have the paramedics separated out, essentially declared an essential service, and they would not go on strike. I'm saying to you that the entire rest of your legislation, as it stands, should do exactly the same thing for all the 40 free-standing units rather than tie them up in this totally convoluted piece of legislation because you're not prepared to declare them an essential service.

Hon Mr Stockwell: I say to the member for Thunder Bay-Atikokan, I agree. We agreed. We would have preferred to have handled it that way. The request two days ago came from the union asking us to consider this amendment. We said, "OK, we'll consider this amendment and put it forward." We believe our take on the bill was fine. If this was a change they were requesting us to make, we didn't consider it such a deal-breaker or that it would break the thrust of the legislation. What I'm saying to you is that we believe the legislation was fine the way it was drafted. During the meeting they

requested this change. You ask us to meet with the paramedics, you ask us to hear their concerns; we hear their concerns, they make a recommendation to us, we adopt the recommendation, and now you're complaining that we've adopted a recommendation.

Mrs McLeod: No. I'll turn it to my colleague, but you are deliberately misunderstanding the question. The question is, you have agreed in this amendment, whether you were forced to it or not, that this group of paramedics—

Hon Mr Stockwell: I wasn't forced to it.

Mrs McLeod: Then you must agree that it's all right.

Hon Mr Stockwell: You're right. I listened to the paramedics—that's what I'm accused of. Yes, I did.

Mrs McLeod: You agreed that this group of paramedics can be declared an essential service. What the rest of the paramedics have tried to say to you, had they been heard, is that they would all like to be declared an essential service rather than have this piece of legislation in front of them.

Hon Mr Stockwell: Because in this situation, they didn't have a meaningful right to strike.

Mrs McLeod: Nor do they in the 40 stand-alone situations.

Hon Mr Stockwell: Yes, they do. Oh, in the stand-alone, no, they don't.

Mrs McLeod: Well, that's 40 to 10.

Hon Mr Stockwell: Yes, but that's for 10. There are significantly more than that out there.

The Chair: Mr Stockwell, Ms McLeod, I'd ask you to address the Chair, one reason being that Hansard is having trouble keeping up.

Mrs McLeod: I appreciate that, Mr Chair. I'll turn it over to my colleague.

Mr Agostino: It appears, if we are to believe what the minister is telling us, that he had a meeting yesterday with the representatives of the paramedics and what he has in front of us today is what he understands they came up with. From my very brief discussion with the folks there, they're saying that's not the case and what you're saying is inaccurate.

On a point of order, Mr Chair: Since this really is crucial, can we ask for unanimous consent to give the representatives who are here, who were at the meeting, a couple of minutes to explain what the understanding was yesterday with the minister and how this differs? I'd ask for unanimous consent for them to be given a few minutes to explain that position so we can understand clearly where the contradiction has occurred. I think that's essential to this.

Interjections.

The Chair: I do not hear unanimous consent.

Interruption.

The Chair: Order, please. Sir, I would ask you to leave, please.

Interruption.

The Chair: I declare the committee recessed.

The committee recessed from 1610 to 1618.

The Chair: Members of the committee, we will continue debate on—

Ms Mushinski: Mr Chair, on a point of order: Given that the same rules in the House also apply in committee, I'm asking that we have the appropriate security to make sure that every elected member in this room is protected from any outburst.

The Chair: Thank you, Ms Mushinski. I did ask the clerk to ensure that some actions were taken as a result of the disorder.

Interjections.

Ms Mushinski: Mr Chair, again on the same point of order: I would ask that we actually have security personnel in this room.

The Chair: Yes, and I understand that has been looked after, Ms Mushinski.

Interjections.

Mr Agostino: On a different point of order, Mr Chair, not that one: Just for the sake of the members here, there's just a small problem with Mr Wood's and Mr Wettlaufer's name tags. That has Mr Wettlaufer's name on it. Just so I know who's voting which way, I ask that the appropriate name tag be placed before the members.

Mr Kormos: Having said that, Mr Agostino—Wood, Wettlaufer; Wettlaufer, Wood—

Mr Agostino: They're the same thing. The votes are the same but at least the names are different.

Mr Kormos: Mr Wood has more money than Mr Wettlaufer.

Mr Bob Wood (London West): I did at one point.

The Chair: Again, I ask committee members to resume debate on section 18. I will remind members that we were in the midst of discussing the amendment from Ms Molinari on page 9, an amendment to section 18. Is there any continued debate?

Mr Kormos: Minister, the amendment is somewhat ambiguous. You talk about the bargaining unit being divided into two units, yet careful reading of the amendment doesn't talk about being divided into two units for the sole purpose of—I appreciate that can be inferred from it and I'm sure that's what you're going to suggest—

Hon Mr Stockwell: That's the rationale.

Mr Kormos: —that it's going to be inferred that it's only for the purpose of that set of collective bargaining, but it doesn't say that. I'm troubled by the requirement that we are only able to infer that rather than stating the specific—

Hon Mr Stockwell: Why doesn't Mr Hill comment on that, being the legal adviser.

Mr Hill: The effect of that clause will be that there will be henceforth two bargaining units. They will bargain separately.

Mr Kormos: Oh, OK. That makes it more onerous than even their inference.

Hon Mr Stockwell: I'm not sure about onerous. I'll tell you, this is what was requested.

Mrs McLeod: No, it is not.

Hon Mr Stockwell: I did have a discussion with the paramedics. I think they have a better understanding of it. I also would refer you to CUPE's own press release where it said, "... effectively taking away the right to strike but it will also take away the right to strike for thousands of other municipal workers." That was their press release. They said they didn't want us to do that. In effect, that's what our legislation does. It declares an essential services bargaining unit for the paramedics where they don't have a significant right to strike. They are then arbitrated. CUPE was concerned that the other workers would get captured in that and also go to arbitration. They said it right in their own press release. This amendment basically says that we will create two bargaining units. If there is not a reasonable right to strike, allow one to go on strike like they normally would in the past and allow the paramedics to bargain and end up at arbitration if they have to.

Mr Kormos: Minister, please don't suggest that this is in response to CUPE's concern. CUPE doesn't want any of its members to be subjected to your arbitration.

Hon Mr Stockwell: That was exactly—

Mr Kormos: No, no.

Hon Mr Stockwell: That was one of their criticisms of the bill.

Mr Kormos: That's right, because your arbitration regime is so oppressive and so unfair—

Hon Mr Stockwell: To be perfectly fair, Mr Kormos, you complain that the bill doesn't do the things that CUPE wants you to do. Then you hear a criticism from CUPE, you deal with their criticism, solve their problem and then claim that that's not what CUPE wants or there's some kind of plan here. You can't have it both ways.

Mr Kormos: You haven't responded—

Hon Mr Stockwell: If that's what they put in their press release to do, we did it.

Mr Kormos: You haven't responded to them.

Hon Mr Stockwell: It is exactly doing that.

Mr Kormos: I'm afraid they don't agree with you.

Hon Mr Stockwell: Well, that's what they said in their press release. I don't know if they changed their minds.

Mr Kormos: I don't think it is very intregous to suggest that somehow this is a CUPE-dictated amendment.

Hon Mr Stockwell: Well, I refer you to CUPE's press release.

Mr Kormos: I've read the press release.

Hon Mr Stockwell: It says right there, "... effectively taking away the right to strike but it will also take away the right to strike for thousands of other municipal workers."

Mr Kormos: Exactly.

Hon Mr Stockwell: We've solved that.

Mr Kormos: Oh, I see; some solution.

Hon Mr Stockwell: What would you propose a solution to be?

Mr Kormos: Do we take chamber number one, chamber number two or chamber number three?

Hon Mr Stockwell: What would you propose a solution to be?

Mr Kormos: Withdraw the bill. Restore some fair arbitration.

Hon Mr Stockwell: You don't have a solution, basically. That's what it boils down to.

The Chair: Any further discussion of this amendment? Seeing no further debate, I wish to put the question.

Mr Kormos: Recorded vote.

The Chair: We are voting on a motion by Ms Molinari. It is found on page 9. This is an amendment to section 18.

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, Kormos, McLeod.

The Chair: I declare the motion carried.

I would now ask committee members if there are any further amendments or debate.

Mrs Molinari: I move that section 18 of the bill be amended by adding the following subsections:

"Restriction

"(8) For greater clarity, the board shall not order arbitration under this section with respect to,

"(a) employees who are not ambulance workers; or

"(b) ambulance workers who are part of a bargaining unit that also contains employees who are not ambulance workers, unless the bargaining unit is divided in accordance with clause (7)(d).

"Time for order

"(9) The board shall not order arbitration under this section before the day on which it would be lawful for the employer or the trade union unilaterally to alter the terms and conditions of employment or the rights, privileges or duties of the employees, the employer or the trade union under section 86 of the Labour Relations Act, 1995.

"Agreement while application pending

"(10) If, while an application is pending under this section, the parties agree on all matters that remained in dispute between them and make a collective agreement, the board shall dismiss the application without deciding it."

The Chair: Any debate on this amendment?

Hon Mr Stockwell: This is just a consequential amendment to deal with the splitting of the bargaining units, sending only the paramedics to binding arbitration and, by CUPE's recommendation, not allowing the others, who have the right to strike, to go to arbitration. They retain that right to strike.

The Chair: Any further debate?

Mr Kormos: If I may, this is just a complement to the previous amendment.

The Chair: I see no further debate. We are considering the amendment on page 10 put forward by Ms Molinari. This is an amendment to section 18. Shall I put the question?

Mr Kormos: Recorded vote.

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, Kormos, McLeod.

The Chair: I declare the motion passed.

Are there any further amendments or discussion with respect to section 18? Seeing none, I will put the question.

Mr Kormos: Recorded vote.

The Chair: We are voting on section 18, as amended.

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, Kormos, McLeod.

The Chair: I declare that section, as amended, carried.

I would now ask the committee to move to section 19. Debate on section 19? Motions?

Mrs Molinari: I move that section 19(1) of the bill be amended by striking out "with respect to a bargaining unit" and substituting "with respect to a bargaining unit of ambulance workers."

The Chair: Any debate on this amendment to the section?

Hon Mr Stockwell: It is a technical amendment to allow ambulance workers access to arbitration.

Mrs McLeod: I'm not going to debate it. I just wish that the same kind of thinking had applied to the balance of this legislation.

The Chair: Any further debate? Shall I put the question to this amendment on page 11, an amendment to section 19?

Mr Kormos: Recorded vote.

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, Kormos, McLeod.

The Chair: I declare that amendment carried.

As Chair, I determine that it is now 4:30. This has been explained to the committee.

Mr Kormos: On a point of order, Mr Chair: Government members delayed the commencement of this committee this afternoon by 10 minutes simply by not being here. That was a ruse. I seek unanimous consent for the committee to sit a further 10 minutes.

The Chair: That's not a point of order, Mr Kormos.

Mr Kormos: I'm seeking unanimous consent. By unanimous consent this committee can do anything.

The Chair: As Chair, I am bound by the order of the Legislature.

Mr Kormos: Why weren't the government members bound to commence this committee at the appropriate time so there could have been more thorough voting on the respective amendments? The government members purposely delayed the commencement of this committee this afternoon.

1630

The Chair: Pursuant to the order of the House—

Mr Agostino: On a point of order, Mr Chair: I challenge that. Clearly the order to the House is given with the expectation that this begins right after routine proceedings are over. I would suggest to you that this session did not begin until at least 20 minutes after routine proceedings were over, so therefore the order of the House was not being followed at that point.

Our orders would have started a lot earlier. The government members delayed this. I believe that with unanimous consent the committee has the ability to be able to extend this as a result of the fact that there was a delay in when this session started, which is not following the order of the House, which said immediately following routine proceedings. There was a 20-minute gap there, and this is why I believe that there is flexibility here.

The Chair: I do acknowledge that this committee began at something like 3:34 this afternoon, rather than 3:30.

Mrs McLeod: I think it was considerably later than that.

Mr Agostino: Later than that, and there was a request for delay and a five-minute stall there while we were waiting for the government members to show up as well with that. After the first vote, Mr Chair, there was a stall by the government while we were waiting for one of the government members to show up and that delayed it by at least five minutes.

The Chair: I've been advised as well, Mr Agostino, that it's not a point of order and, as I've indicated previously, we are bound by this order of the House.

Mr Agostino: So if the proceedings begin later than prescribed, this committee has absolutely no power to extend those proceedings to make up for the time that was delayed. Is that what you're telling us?

The Chair: That's my understanding, pursuant to the order of the House.

Mr Agostino: Even if we didn't follow the order of the House by starting later.

Mr Kormos: On a point of order, Mr Chair: I don't understand how government members could delay the commencement of the proceedings. The Chair would not call the meeting to order when there was already one government member here. The Chair, I submit, had a responsibility to call this meeting to order and to commence the proceedings in view of the time allocation motion.

The Chair, in its impartiality—I suppose this is the type of impartiality that these workers can expect from the arbitrators you're going to impose on them by virtue of this bill. But I find this a very skewed process this afternoon, even more skewed than it was by virtue of the time allocation motion; pretty deplorable conduct, I say, on the part of government members to obstruct the course of this committee and to frustrate these people even further than they've already been.

The Chair: Thank you, Mr Kormos. Pursuant to the order of the House—

Mrs McLeod: Mr Chair, as a point of clarification, then, do I understand that the time allocation motion would now direct us—because it is 4:30, despite the delays—to proceed through three government amendments, four Liberal amendments, plus the one that was set down, and an NDP motion?

The Liberal and NDP motions, which have to do with serious concerns around the minister's ability not only to appoint an arbitrator but to appoint a person of no previous experience as an arbitrator who has not been recognized as a person mutually acceptable to both trade unions and employers and is not a member of a class of persons which has been or is recognized as being comprised of individuals who are mutually acceptable to both trade unions and employers—are all of those amendments dealing with those sections now to be placed as number and not read further into the record, let alone debated?

The Chair: Mrs McLeod, in answer to your question, I, as Chair, am now interrupting these proceedings and will, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto.

Mrs McLeod: For the sake of clarity, then, may I ask that the amendments be read as they're placed?

The Chair: Maybe to further explain and in part to answer your question, those amendments that have not been moved shall be deemed to have been moved.

Mrs McLeod: I understand that, so that you don't need a mover, but can they be read? They have to be voted on. They're deemed to have been moved, but they have to be voted on. My request was to have them read as they're voted on so we know and the people here who have not been part of this up until now can at least know what it is we're voting on when we vote.

The Chair: I could ask the clerk if that's a change in standard procedure.

Clerk of the Committee: The order of the House has ordered that all amendments not yet considered are deemed moved. So no, they wouldn't be reread.

Mrs McLeod: I don't believe it speaks to whether or not they can or cannot be read, though. I don't believe there is an order on that.

The Chair: I've asked the clerk to determine an answer to your question. Mr Kormos?

Mr Kormos: On a point of order, Mr Chair: I seek unanimous consent that these motions amending the bill be read in their entirety as we vote on them.

Ms Mushinski: No, that's out of order.

Mr Agostino: What the hell are you guys afraid of? Read the damn things out.

Ms Mushinski: I believe that's out of order, Mr Chair.

Mr Agostino: We can't debate it, and now you say you can't read it out loud before you vote on it. So we don't know what we're voting on. You must be proud of it to be able to defend it.

The Chair: The only information I have is that those amendments that have not been moved shall be deemed to have been moved.

Mrs McLeod: My question was about reading them. I understand that they've been deemed to be moved, but that doesn't preclude our reading them as they are to be voted on. It's simply a courtesy, Mr Chair. I think people who are significantly affected by what we are about to do deserve at least the courtesy of knowing, when we put up our hands, what it is we're putting up our hands in support of or opposition to.

The Chair: We'll clarify this. As I understand it, I'm bound to put every question necessary to dispose of the remaining sections.

Mrs McLeod: I understand that, but I don't believe there is anything that precludes their being read.

The Chair: But there are no further instructions from the Legislature.

Mr Kormos: But, Chair, please—

Interruption.

The Chair: Order, please. Sir, could I ask you to leave the committee.

Interruption.

The Chair: We'll call a five-minute recess.

The committee recessed from 1638 to 1643.

The Chair: I bring the committee back to order. We have additional information and I will state that on advice, members have no grounds to read these amendments. If the committee felt this was appropriate, I, as Chair, could read the amendments, if you felt that was useful. I do wish to forge ahead with this.

Mrs McLeod: I appreciate that. I obviously would think it would be a courtesy if you, as Chair, read the amendments. I would like to propose that you do that.

The Chair: OK. As Chair, I will proceed that way. I just want to perhaps, for future discussion, make it clear to the committee that members have no grounds to read in further amendments. But I will read them, as Chair.

So, members of the committee, we are on section 19. I will now read the amendment that you will find on page 12, a government motion:

“Subsection 19(2)

"I move that subsection 19(2) of the bill be amended by striking out 'including employees who are not ambulance workers.'"

Shall this motion carry?

Mr Agostino: Recorded vote.

The Chair: You're requesting a recorded vote? Further to that, do we wish a recorded vote on every motion?

Mr Agostino: Yes.

The Chair: OK, then, we will have a recorded vote on this amendment and all subsequent amendments.

Mrs McLeod: Mr Chair, could you just also explain the rules to people who are watching, that we are now precluded from any debate on the amendments? I believe that's the rule.

The Chair: I can again refer to the order of the House, where I, as Chair of this committee, have interrupted proceedings and shall, without further debate or amendment, put every question necessary.

The amendment on page 12, again, I'll just repeat to make sure we're on the right page. This is the amendment to section 19.

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare that amendment carried.

Page 13, we have an amendment to subsection 19(3):

"I move that subsection 19(3) of the bill be amended by striking out 'including employees who are not ambulance workers.'"

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare that amendment carried.

Page 14, the government motion to subsection 19(4):

"I move that subsection 19(4) of the bill be amended by striking out 'including employees who are not ambulance workers.'"

Shall this amendment carry?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare this amendment carried.

The government motion on page 15, subsection 20(5):

"I move that subsection 20(5) of the bill be struck out and the following substituted"—oh, I'm sorry; I've just realized I've jumped into section 20.

We now have carried amendments to section 19. Shall section 19, as amended, carry?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare section 19 carried.

We now turn to section 20, the government motion on page 15, subsection 20(5):

"I move that subsection 20(5) of the bill be struck out and the following substituted:

"Minister's power

"(5) In appointing an arbitrator or replacement arbitrator, the minister may appoint a person who has not previously been or is not recognized as a person mutually acceptable to both trade unions and employers."

Shall this amendment carry?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare that amendment carried.

Page 16, a Liberal motion, subsection 20(5):

"I move that section 20 of the bill be amended by striking out subsection (5)."

Mr Agostino: Recorded vote.

The Chair: Each motion will be a recorded vote.

Ayes

Agostino, McLeod.

Nays

Miller, Molinari, Mushinski, Wood.

The Chair: I declare this motion lost.

On page 17, a Liberal motion, subsection 20(6):

"I move that section 20 of the bill be amended by striking out subsection (6)."

Ayes

Agostino, McLeod.

Nays

Miller, Molinari, Mushinski, Wood.

The Chair: I declare that motion lost.

Page 18, a Liberal motion, subsection 20(13):

"I move that section 20 of the bill be amended by striking out subsection (13)."

1650

Ayes

Agostino, McLeod.

Nays

Miller, Molinari, Mushinski, Wood.

The Chair: I declare that motion lost.

That concludes the amendments under section 20.

Shall section 20, as amended, carry?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: Now we return to section 21. Under section 21, on page 19 I have a Liberal motion:

"Subsection 21(2), paragraph 7

"I move that subsection 21(2) of the bill be amended by striking out paragraph 7."

Ayes

Agostino, McLeod.

Nays

Miller, Molinari, Mushinski, Wood.

The Chair: I declare this motion lost.

On page 20, an NDP motion:

"Subsection 21(7)

"I move that subsection 21(7) of the bill be struck out and the following substituted:

"Application of Arbitration Act, 1991

"(7) The Arbitration Act, 1991, applies to all arbitration proceedings under this act and prevails in the event of a conflict with this act."

Ayes

Agostino, McLeod.

Nays

Miller, Molinari, Mushinski, Wood.

The Chair: That completes the amendments under section 21. Shall section 21, as amended, carry?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare that section carried.

Section 22: I see no amendments. Shall section 22 carry?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare section 22 carried.

Section 23: I see no amendments. Shall section 23 carry?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare section 23 carried.

Shall section 24 carry?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare section 24 carried.

I would ask the committee, in keeping with procedure used in the past, shall I collapse several sections? I would suggest we collapse sections 25 down through to section 31. Is that amenable to the committee?

I would pose the question on these collapsed sections. Shall section 25 through to section 31 carry?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare section 25 through section 31 carried.

We have a previous Liberal motion that was on page 3, a motion made by Mr Agostino, and we agreed to stand that motion down. I would now put this amendment before the committee. This amendment was read previously by Mr Agostino. Is it necessary for the Chair to read this again?

Mr Agostino: Can you read it again, please?

The Chair: Yes, I'm more than willing to read it again.

On page 3, a Liberal motion:

"Section 9.1

"I move that the bill be amended by adding the following section:

""Referral to arbitration

""9.1(1) Upon the application of either party, or on its own initiative when an application has been made under section 9, the board may order that all matters remaining in dispute between the parties be referred to an arbitrator for final and binding interest arbitration.

""When board may make order

""(2) The board may make an order under subsection (1) if it is satisfied that any essential ambulance services agreement that could be made by or for the parties in accordance with this act would necessarily have the effect described in clause 18(1)(a) or (b).

""Application of sections 19-22

""(3) When the board makes an order under subsection (1), sections 19, 20, 21 and 22 apply.""

I will put the question. Shall this motion carry?

Ayes

Agostino, McLeod.

Nays

Miller, Molinari, Mushinski, Wood.

The Chair: I declare this amendment lost.

The next question for this committee: shall the long title of the bill carry?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare that motion carried. Shall Bill 58, as amended, carry?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare Bill 58 carried. Shall I report the bill, as amended, to the House?

Ayes

Miller, Molinari, Mushinski, Wood.

Nays

Agostino, McLeod.

The Chair: I declare that directive carried. This ends the proceedings for this afternoon. *The committee adjourned at 1658.*

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Also taking part / Autres participants et participantes

Hon Chris Stockwell, Minister of Labour

Ms Tracey Mill, Ministry of Labour, employment and labour policy branch

Mr John Hill, Ministry of Labour, legal services branch

Mr Rob Nishman, Ministry of Health, air ambulance section

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Monday 25 June 2001

Journal des débats (Hansard)

Lundi 25 juin 2001

Standing committee on justice and social policy

Horse Riding Safety Act, 2001

Comité permanent de la justice et des affaires sociales

Loi de 2001 sur la sécurité
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY

Monday 25 June 2001

*The committee met at 1556 in room 151.*HORSE RIDING SAFETY ACT, 2001
LOI DE 2001 SUR LA SÉCURITÉ
DES CAVALIERS

Consideration of Bill 12, An Act to increase the safety of equestrian riders / Projet de loi 12, Loi visant à accroître la sécurité des cavaliers.

The Vice-Chair (Mr Carl DeFaria): When the committee adjourned last week, we were discussing the Liberal amendment to subsection 2(5). I understand there will be some position from the Liberal side on whether the amendment is going to be withdrawn or not.

Mr Peter Kormos (Niagara Centre): Chair, on a point of order: Can we just clarify the status of things, please? I'm well aware of Ms McLeod's amendment, the Liberal amendment. Effectively, that refers the matter of exemptions to regulation. Are we to understand that that's been moved and seconded and we are now debating that amendment?

The Vice-Chair: That's correct. There was an issue about whether that amendment was going to be debated or withdrawn today, and that's what I'm asking the Liberal member.

Mr Kormos: May I speak further to that amendment?

The Vice-Chair: Let's have Mr Smitherman first.

Mr George Smitherman (Toronto Centre-Rosedale): Of course I'm a poor substitute today for Mrs McLeod, but this amendment is before the committee. It deals with our intention of attempting to clarify the circumstances of concern of some operators, particularly small business operators in the province who feel that without some clarification, they may be subjected to conditions which would make their businesses impossible to operate in an appropriate way. The intent of this amendment is to offer regulation that would allow for clearer interpretation of this, so as to allow the intent of the bill to move forward without having unnecessary or unhelpful intent, that being to cause concern for small business operators.

I think Ms McLeod was also looking for some clarification on one point. There seemed to be some lack of clarity around which government ministry would have carriage of this, and it might be helpful in clarifying which government ministry that is likely to be. We're thinking it might be consumer and business relations, but has that been—

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Lundi 25 juin 2001

The Vice-Chair: Ms Molinari?

Mrs Tina R. Molinari (Thornhill): In fact, the ministry that will be taking responsibility for this is the Ministry of Consumer and Business Services. A representative was asked to attend today. If there are any questions, I'm sure he would be prepared to respond.

In essence, this amendment attempts to address some of the concerns that were raised in the committee. I thank the Liberal member, Mrs McLeod, for bringing this forward in a helpful way so we could get the bill passed.

I have been assured by the Ministry of Consumer and Business Services that they will take into account all the suggestions and comments raised in this committee through the presentations of the various deputations and also through the clause-by-clause process we engage in in the upcoming weeks. Several members have raised very similar concerns, and I've been assured that the ministry will take all of that into account in developing the regulations that would encompass some of the concerns that were raised.

The Vice-Chair: Mr Kormos.

Mr Kormos: Perhaps Mr Smitherman wants to respond directly to Mrs Molinari.

Mr Smitherman: All I wanted to say is that you made the offer of a representative from that ministry being here. I wouldn't mind hearing those assurances directly from the representative, so maybe just one or two quick questions would be in order.

Mrs Molinari: Mr Chair, the person from the Ministry of Consumer and Business Services here today is Ryan Bailey. I've given my assurances on behalf of the ministry, but Mr Bailey may want to comment and give the assurances from the ministry directly that what's been discussed at this committee meeting will in fact be taken into consideration when the regulations are built in. Mr Bailey is in the audience, if you want to invite him forward to get that assurance.

The Vice-Chair: Mr Bailey, please take a seat before the committee. We are debating the amendment by Ms McLeod, the Liberal amendment to subsection 2(5) of the bill. I understand that your ministry will be in charge of overseeing the regulations.

Mr Ryan Bailey: Yes, that's right. Absolutely.

The Vice-Chair: Are there any questions of Mr Bailey?

Mr Kormos: Perhaps he could identify himself, what his status is, whom he works for and so on.

Mr Bailey: My name is Ryan Bailey. I'm the issues manager and legislative assistant to the Minister of Consumer and Business Services.

Mr Kormos: So you're political staff.

Mr Bailey: Yes.

Mr Kormos: Chair, please, this is absurd. With no disrespect—I mean, Mr Bailey is here doing his job. I have the highest regard. But this is absurd. Come on—

The Vice-Chair: Mr Kormos, if I may—

Mr Kormos: Let me finish, Chair.

The Vice-Chair: OK, go ahead.

Mr Kormos: He's political staff. Please, Mr Bailey, no disrespect; again, I have every regard for you. But he's not part of the policy end. He can't make commitments on behalf of the ministry. This is incredible. I'm glad I asked that preliminary question of Mr Bailey. I wouldn't want to be in his shoes. I don't think he makes enough money to be here having to answer, because we're going to be asking very candid questions about how the ministry has approached Ms Molinari's bill from a policy perspective, what considerations it has had of it, again from a policy perspective, what review it's made. I don't think there's even been a Hansard of this committee hearing available; I'm not sure it's even published yet, because of the de-staffing of Hansard. It's not as if the ministry staff has had an opportunity to review the Hansard and hear what's being said here.

My goodness. How fair is it to put Mr Bailey in a position to say, "Yes, committee members, I've read the Hansards and the ministry has reviewed all the considerations raised by Ms McLeod and Mr Crozier and by Kormos and by people making submissions, and the ministry right now is drafting a regulation that says, yes, the dressage riders will be exempted." That was one of the issues, Mr Smitherman: the people who ride dressage underage, even in a very disciplined context. Let me ask you, sir, are you familiar with the mom-and-pop pony issue?

Mr Bailey: I'm afraid I'm not, no.

Mr Kormos: Again, no disrespect. Do you see the problem we have, Chair? He's being very candid. I applaud him.

The Vice-Chair: Mr Kormos, let's give Mr Bailey an opportunity to answer the questions he may be able to answer. Mr Bailey, did you have an opportunity to discuss the bill and the amendment—

Mr Kormos: Wait a minute, Chair. You're the Chair.

The Vice-Chair: I'm just asking him a preliminary question.

Mr Kormos: No, no, Chair. With all due respect, on a point of order: These folks here ask the questions.

The Vice-Chair: No, I may ask a witness a question if he—

Mr Kormos: A witness?

The Vice-Chair: He's a witness before the committee, if he's here.

Mr Kormos: No, he's a person making submissions. He's a person here to answer questions. That's far from being a witness.

The Vice-Chair: I just wanted to ask some preliminary question, Mr Kormos.

Did you have an opportunity to review the bill and discuss it with policy people at the ministry?

Mr Bailey: We've had an opportunity to look at Bill 12 and we have had an opportunity to analyze its impact on the ministry. We've had our legal people look at it. We have gone that far. And we have talked to our minister about having it fall under our umbrella, and that was no problem.

The Vice-Chair: Do you feel comfortable answering questions about this amendment?

Mr Bailey: I do not.

The Vice-Chair: You don't feel comfortable answering questions?

Mr Bailey: No, I do not. I don't think I know enough about it to do Ms Molinari justice or the other members of the committee, to give you the answers you're looking for.

The Vice-Chair: All right. Ms Molinari, do you have any other comments?

Mrs Molinari: I know some of my colleagues want to speak as well. My understanding was from our last meeting that the amendment put forth by Mrs McLeod was going to be an enabling amendment for the development of regulations. The concern was that it didn't have a home with a ministry, and the committee wanted assurance that some ministry would be taking responsibility for the development of the regulations based on all the comments that were made.

It was not my understanding from the committee that the expectation was that it would be more concrete than that. It was more of a commitment to do that. In the essence of time, Mr Chair and members of the committee, it's not possible to develop all those regulations to encompass this in the time we have between now and when the House recesses. It was my understanding there was a general need for that kind of commitment from the ministry because, as of the last meeting, this bill didn't have a ministry that was going to be taking responsibility for it. That was, in essence, the concern. It was raised that what the committee needed to reach a comfort level was that a ministry would take responsibility for it and a commitment that the ministry would take into account the comments made at this committee in the public hearings and in the clause-by-clause.

There is a consistent theme in this. It's not a controversial issue. The comments that were made were not contradictory of one another. It's not something the ministry would have to look at to find which should be taken into account and which should not, because there was a consistent theme. My understanding from the committee was that we would be able to pass this with that kind of assurance.

Mr Chair, could I ask at this point in time for a short recess so we can consult and hopefully come back and be able to give you more of the answers you want so as not to delay this any further.

Mr Smitherman: Just to be helpful, it's not a question of the answers but who is delivering them that poses some concerns for us. Mr Bailey made reference to the broad range of people in the ministry who were consulted. We'd like to see someone from the ministry rather than a political staff person of the minister. That would give us more confidence. The lengthy preamble—I could nod my head repeatedly, but the point is that I'd like to ask one or two questions of the people from the ministry who had been participants in those conversations to give us the assurance that they understand the nature of the concerns we're attempting to address in the regulations. If we can accomplish that in a short recess and a director or someone like that from the ministry could come up, we'd be able to satisfy that, from our party's standpoint, quite quickly.

The Vice-Chair: I think what Mrs Molinari was saying—I was a member of the committee before we recessed last week, and the discussion was whether there would be a ministry that would take responsibility for the regulations. I think it's clear now that the Ministry of Consumer and Business Services is prepared to take responsibility for the regulations.

Maybe with a short recess, we'll be able to answer whatever questions we still have. Can we have a recess of five minutes? Is that sufficient? The committee is recessed.

The committee recessed from 1607 to 1714.

The Vice-Chair: I call the committee to order.

Mr Kormos: Thank you, Chair. There is a motion on the floor, an amendment by Mrs McLeod. I seek unanimous consent to have that motion deferred for consideration until other motions are made.

The Vice-Chair: Do we have unanimous consent to defer? Agreed.

Mr Kormos: Chair, I have an amendment to section 1 and the definition of "horse." I move that the definition of "horse" in section 1 of the bill be amended by adding "that is over 14.2 hands in height and does not include a pony" at the end.

That would mean that the definition of "horse" would read as follows:

"'Horse' means any animal of the equine species that is over 14.2 hands in height and does not include a pony." That would be the new definition if this amendment were acceptable to the committee.

The Vice-Chair: Before we deal with the amendment, do we have unanimous consent to reopen section 1 of the bill? Agreed. Is there any debate on Mr Kormos's motion?

Mr Kormos: Very quickly. It is the committee's understanding—there are members of the committee who have experience and expertise, and I'm grateful to them. Mr Guzzo, Mr Beaubien and Mr Johnson have assisted in determining that 14.2 hands, written that way, means 14 hands, two inches, and that is the accepted definition of height measured at the withers—and of course we all know where the withers are. Basically, we're saying by this amendment that the helmet rule will not apply to

horses less than 14.2 hands in height, or to ponies in the rare case that you might have a pony that's 14.3 hands, for instance. We're making sure this is an accommodation of pony-ride establishments. I thank Mrs Molinari and of course Messieurs Guzzo, Beaubien and Johnson for their assistance and their attitude, because this protects people like the Careys and the Atkinses and other small pony-ride operators across the province.

The Vice-Chair: Thank you very much, Mr Kormos. Thank you for assisting us so we can deal with this matter expeditiously. Are there any further comments on this amendment?

Mrs Molinari: Just a quick comment that I appreciate all the work the committee has done on this bill. I know it's important to all of us to make sure that this gets passed and through. In the essence of time, I'm prepared to support the amendment on the floor. I also want to say that in the second reading debate of this bill some members of the Legislature raised concerns about watering down the bill. I wouldn't want it to be perceived that it was my direction. I'm accepting this as an amendment by virtue of the concerns that have been raised and in order to get the bill passed. I think that with the amendment, having the bill pass is better than not having the bill passed at all at this point. So I appreciate the work the committee has done and I will support the amendment.

The Vice-Chair: If there are no further comments, shall the amendment, as read by Mr Kormos, carry? Carried.

Mr Kormos: Chair, I have another amendment to section 1. This is with respect to the definition of "horse riding establishment."

I move that the definition of "horse riding establishment" in section 1 of the bill be amended by striking out "boards horses or" in the second line.

One of the concerns with the scope of the bill is in terms of who it caught. It's our understanding, and we support the intention of the bill, that commercial riding establishments—places that rent out horses so you can ride the horse and trot it or whatever it is you do with the horse, where the rider has control of the horse—are the establishments the committee and the author want to see caught by the bill.

Eliminating the words "boards horses or" excludes those people who merely board horses, who aren't running a riding stable or a riding academy or teaching riding lessons. They're not always there. Sure, there are big, big, big ones that have enough staff, but then there are little, little, little ones, like where I come from, where the people who run them work at jobs in addition to their farms. They're working at Atlas Steels or at General Motors and they're not even there on a Sunday when a mom or a dad take their own horse out of the stable or out of the stall and put their child on the horse. I think it's unfair for the owner of that property to be caught by this legislation. There should be a responsibility on the part of the parent, obviously, but the bill doesn't purport to do that. That's fine. I understand that the bill has to be specific about what it does.

This clearly identifies that it's commercial riding stables that have an obligation, especially when you read this in conjunction with the amended subsection 2(1) of the bill. This amends the definition of horse riding establishment, but 2(1) says "No owner or operator of a horse riding establishment"—to wit, a commercial riding stable—"shall permit any rider under the age of 18 to ride any horse boarded by the rider in the stables of the establishment or transported by the rider to the establishment unless the rider has and is correctly using the following equipment:" etc.

What this does is that if you're a commercial riding stable but you board a horse, you are caught by the rule. If that's your primary purpose, running a riding stable, yet at the same time you rent out a stall—because "a riding stable" assumes you're going to be exercising control over that place—then you are caught by the bill. If you are not a commercial riding stable and somebody rents a stall from you or boards a horse, then you're not caught by the bill. So if you're like the folks I have who are raising and training race horses and they rent out a couple of stalls, the bill doesn't apply to them. Maybe it should in theory, but it doesn't. If you're somebody like my friend Diane Grenier, who has her little property but a great big barn with 10 stalls—she only has three horses; they're expensive and she rents out a couple of stalls—she's not caught by the bill because she isn't a commercial riding establishment. She doesn't run a business of renting horses for riding. They're her own horses but she rents out a stall or two to help subsidize what I'm advised is the incredibly expensive business of even keeping horses, never mind riding them or renting them out.

Interjection.

Mr Kormos: For the first time in six years, Mr Beaubien agrees with me enthusiastically.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): No, it's not the first time.

Mr Kormos: You've agreed with me before? In any event, this amendment deletes the words "boards horses or" for the reasons I've described.

Mrs Molinari: I will be supporting this as well. I have to voice my concern from the very beginning, because having consulted on this bill with a lot of the establishments, it will be perceived to some extent as watering down the bill and that was one of the things that people didn't want to happen. I repeat, to get this bill through, I would rather have it go through with the amendments than not have it at all.

I did need to make clear my views on this. What we're doing with this amendment is excluding some from the legislation and including others. My preference would have been to include them all. But I will support it in the interest of getting the bill passed. Hopefully, with unanimous support from all in the House, we can get this through before the end of the session.

The Vice-Chair: If there are no further comments, shall the amendment moved by Mr Kormos carry? Carried.

Are there any further amendments?

Mr Kormos: If I may, Chair, now might be an appropriate time to consider Mrs McLeod's amendment.

The Vice-Chair: I still have to finish carrying section 1.

Mr Kormos: Quite right. Of course.

The Vice-Chair: Shall section 1, as amended, carry? Carried.

Now we'll revert to subsection 2(5), the amendment by Mrs McLeod. Are there any comments or can we move to pass this amendment?

Mr Smitherman: We spent the last hour and a half, not writing those amendments, but waiting to have some officials from the ministry attend so we might pose some questions to them. I'm very interested in doing that.

1720

The Vice-Chair: Ms Molinari?

Mrs Molinari: In fact, ministry representatives are here. Based on the amendments we've just made to the bill, the developing of regulations that were going to be encompassing the amendments that have been made are to some extent redundant at this point, but in having spoken to some of the members I understand that there's still a desire to have this motion passed so that it would allow for some flexibility in development of regulations.

We could listen to the ministry representatives who are here, but their impression was that the amendments we just made to this bill, that are actually now in the bill itself, were going to be included in the regulations. I'm not sure what questions the committee would have for them, other than an openness to look at possibilities for regulations that would need to be taken into account once the bill is passed.

Mr Smitherman: If we were satisfied with your assurances, they wouldn't be here. I think we had some questions just to make sure that what you're articulating is clearly understood by them.

Mr Kormos: While they're seating themselves at the table—thank you, folks—I should indicate once again that we support the motion amending the bill by Ms McLeod. It provides that residual power on the part of this or subsequent governments to address problems that may arise. Indeed, now that the bill has been amended it is even more appropriate, because we don't advocate, and I don't think Ms McLeod did when she moved this, that this is the way that this should be done.

She put it forward as a stop-gap measure, as I recall, and I don't want to purport to speak for her, but I don't think she'd mind my saying that. But again, the bill has been amended now; this residual power is available. That's what these regulatory processes, in my view—and I suspect in Ms McLeod's as well—should be for: for after the fact, for cleaning up problems that might arise, not for dealing with the gist of the bill.

So, gentlemen, thank you very much.

The Vice-Chair: Mr Kormos, we don't have—

Mr Kormos: I know, we don't have a lot of time, so let's go.

The Vice-Chair: Gentlemen, if you could identify yourselves for the record.

Mr Scott James: My name is Scott James. I'm with the Ministry of Consumer and Business Services.

The Vice-Chair: What's your position?

Mr James: Manager of the administrative authority liaison section.

The Vice-Chair: The other gentleman?

Mr Ben Osemeke: My name is Ben Osemeke, policy branch, the same ministry.

The Vice-Chair: Right. Do you have any questions?

Mr Smitherman: Yes. Just to get, first off, a comment from you. The minister's legislative aide spoke briefly about some of the efforts that have been made within the ministry to discuss some of the concerns. I wonder if you might just tell us what discussions you've been engaged in, with respect to this bill, around the specific concerns that we're dealing with?

Mr James: With respect to the proposed amendment to subsection 2(5)?

Mr Smitherman: No, rather to the broader discussion around concerns that have been discussed at the ministry as related to the bill; not limited only to 2(5), but any other concerns. I just want to see if you've been actual participants in those discussions.

Mr James: Sure. I can say that we were consulted, I guess we've been consulted around certain options on how one could approach legislation in this area. Certainly I was consulted, and more so in the guise of looking at different types of alternative service delivery models that could be put in place for delivery of the legislation, should it be passed.

Mr Smitherman: OK. With the amendments that were just made in section 1, is there any lack of clarity around the intent there, which is essentially to well distinguish between pony ride operators and commercial stable operators?

Mr James: Sorry, you're asking is it clear who the bill is intending to capture?

Mr Smitherman: Right.

Mr James: I think that it seemed fairly clear to me.

The Vice-Chair: Mr Kormos.

Mr Kormos: OK. One, in terms of defining a horse, the amendment is intended to exclude ponies. Do you agree with that?

Mr James: I agree that was the discussion I heard. I have to say, in terms of consideration of exclusion of ponies, any discussions within the ministry on that issue, no, I have not been privy to those kinds of discussions. We would probably look to colleagues in ministries such as OMAFRA to give us advice on such things.

1730

Mr Kormos: Ms Molinari's eyebrows have raised now that you've mentioned yet another ministry. That's OK, Ms Molinari, we're going to finish this bill this evening; we don't have to wait for the Ministry of Agriculture.

But do you understand that we've tried to redefine "horse" so that it excludes ponies? We say ponies are excluded, but also we say anything that's 14.2 hands and under is excluded. That's clear, right?

Mr James: It seems pretty clear. I would assume that the policy principle there is the height that the rider is at and their risk—

Mr Kormos: You understand it's the height at the withers?

Mr James: Again, I'm not too familiar with withers, but I understand what you're suggesting.

Mr Kormos: Whither goest this committee with this bill? But we understand it's the height at the withers. I had to learn about withers, so the judge or justice of the peace who has to apply this bill should know about withers as well.

The other exclusion was making clear the focus, that the people responsible for ensuring helmets are worn are the people who run commercial riding establishments. Do you agree that the amendment has that effect?

Mr James: That was my understanding of the intent of the bill.

Mr Kormos: But what about the amendment? Does it reinforce that intent?

Mr James: Certainly it does look like it is narrowing the scope to not include people who board horses. However, I imagine that if subsection 2(5) were also passed, there would be scope to consider other types of exemptions if they inadvertently captured anybody.

Mr Kormos: But the problem is, you agree, that you and your colleague can't come here and commit the minister to any given regulation?

Mr James: Absolutely.

Mr Kormos: You and your colleague come here and you can't commit the ministry to preparing any regulation?

Mr James: That's correct.

Mr Kormos: And you can't commit the cabinet to approving any regulation?

Mr James: You're correct again.

Mr Kormos: So it would have been risky business to have assumed that just because the regulatory power is going to be included in the bill, that regulatory power would be used in the way the committee, even as a whole, may have hoped or anticipated?

Mr James: I assume that's correct.

Mr Kormos: OK. Thank you kindly.

The Vice-Chair: So we have had comments on this. Should I put the question on the amendment?

Shall Ms McLeod's Liberal motion on page 5 carry? Carried.

Shall section 2, as amended, carry? Carried.

We're going back now to section 5. Shall section 5 carry? Carried.

Shall section 6, the short title, carry? Carried.

Shall the long title of the bill carry? Carried.

Shall Bill 12, as amended, carry?

Mr Kormos: Debate.

The Vice-Chair: Debate?

Mr Kormos: Yes, very briefly. This has been a lengthy process. I want to express gratitude to the members of this committee—to Ms McLeod, Mr Bryant and Mr Crozier, who have at various times been here, Mr

Smitherman today—to Ms Molinari and to other government members on the committee. It has been an incredible learning experience for a whole lot of people. The intention of the bill was good from the get-go. It reflected a finding by a coroner's jury. I think everybody shares the view that coroners' inquest juries should be given effect, otherwise why hold them? Why go putting those people through the trouble?

I believe that the bill, as amended, addresses the issue of the jury recommendations. I understand that there were advocates saying that everybody on every horse should wear a helmet. I understand that. But there are clear issues of enforceability, there were clear issues of shifting liability, because the bill, before it was amended, by virtue of the offence, created a new tort liability on the owner of a boarding place, for instance, where that owner of the boarding place would have had no reasonable control over whether or not an individual horse owner came and got their horse out on a weekend when that owner-operator wasn't there. I don't think that's what was contemplated by the jury, or necessarily contemplated—I don't want to speak for her—by Ms Molinari.

Mr Guzzo was exceptionally helpful today in speaking with Mr Carey and in helping word these amendments. His background and experience gave him some special qualifications in that regard, and I think the committee should acknowledge his assistance to this committee.

To those who wished the bill had gone further, I say that this is an opportunity to test the level of enforcement, because it's always a concern. You can have all the statutes in the world, but if there aren't people out there enforcing them, they're not going to save lives. I recognize that helmets for youthful riders on full-sized horses will save lives. I recognize that helmets in any situation would save lives. But the problem is that from a pragmatic point of view in terms of keeping the Careys' business viable, or the Atkinses', down where I come from, in St Anns, if we hadn't had these people come forward, if the Careys and the Atkinses hadn't come forward—because they weren't invited to the committee; they just sniffed out the fact that this bill was moving forward—because of our unfamiliarity with their business, the little mom-and-pop pony operators, we could have ended up passing a bill that put a whack of people out of business. I don't think anybody on the committee would have felt comfortable doing that.

So all I'm saying when I say "lesson" is I think it's a lesson for all of us. Again, the intent of this bill was superlative, and I don't question that or the motives of the author of the bill, but I think we've learned that sometimes even the shortest and most obvious bills still warrant as complete consideration as ones that are X number of pages long.

I thank the folks who came before the committee. I thank the Atkinses and the Careys, especially Mr and Mrs Carey, who have been here every time this committee has met. They've driven in from Freulton, down near Flamborough way. These are good folks.

They've been here at every committee hearing. They've lent their expertise. They've tried to assist the committee as much as they could. The bill isn't named after them, and I'm not sure they'd want it to be. But I'm just so impressed, because they have made the committee system work. They showed up here, they persisted, they stuck to their guns, they talked to other people, they got other people to talk to members of the committee, whether it was Ms McLeod or myself, and I just want to thank them thoroughly and just as sincerely as any politician could ever muster up sincerity.

But in all sincerity, I do thank them. They have proven themselves invaluable. They've made this committee far more effective, and I hope all of us recall this committee and the contribution that two just plain folks, but exceptional in their own way, made. So my gratitude to you, and I hope you have the gratitude of your colleagues in your business, because they may never know how close they came to lining up for workfare. That's not a pleasant proposition. First they've got the cup—you know that, right? First you've got to provide a sample. It's not a pleasant proposition. But they won't know how close they came and similarly for some of your friends in the horse-boarding industry. Thank you very much to the Chair and to the committee.

The Vice-Chair: Any other comments?

Mr Bert Johnson (Perth-Middlesex): I just wanted to make a brief remark. In part of my riding there is still a lot of farming done by the Amish and Mennonites, where they use horses and so on. Part of their culture is that the youngsters—because at 16 they will start helping their fathers—will harness a team of horses, jump on one of the horses' backs, drive to a neighbour's, hitch on to their equipment and help for the day. At the end of the day, they unhook, jump on one of the horses' backs and ride home.

They will often cross a highway, they will often go along the road allowance, and there is signage and stuff like that. But part of my concern is that their headgear, in spite of safety, is usually a straw hat in the summer and a felt hat in the winter. Part of my interest in being here is that their interest is being addressed by us as well.

Mrs Molinari: I have some comments also. I want to thank the members of this committee for having endured this lengthy process. It being my first experience with a private member's bill and going through this process, I've certainly been enlightened in a number of ways. I thank all the committee for their patience and their working together in ensuring that this bill would be completed and passed, and hopefully through third reading.

I also want to thank Marcia Barrett from the Ontario Equestrian Federation, who's also been here through the whole process—through the hearings and through the clause-by-clause and whose commitment to this bill has been unwavering, and Bruce Brown, the president of the Association of Riding Establishments of Ontario, who was also one of the presenters. These two people have been tremendously supportive and helpful in the development of this bill and have allowed me the opportunity to

meet with a number of various establishments to get input in bringing this bill forward and ensuring that it would be passed.

I have some concerns over some of the exclusions that we've made to this bill. I'm not going to repeat the comments I made during the debate on the amendments, but I will say that this bill was prompted by several coroners' inquests that said there should be enough protection and safety to save lives. So the thrust and intent of this bill was to provide safety for riders under the age of 18 to hopefully not have any other serious accidents occur.

Mr Kormos talked about lessons learned in this, and certainly there are a number of lessons that we've learned. I just hope that, based on the exclusions and exemptions we've made to this bill, there won't be another lesson learned in the future; that because of some

exclusion there will not be another accident that will cause us to revisit this bill and enforce it in some way.

Having said that, I am pleased that we've concluded this, hopefully at this point in time, and we'll be able to go to third reading. I encourage all the members, and I hope Mr Kormos, as the House leader for his party, in the discussions of bringing this forward, would support this as being one of the ones that should be brought forward for third reading and passed before Thursday.

Again, I thank all the committee, and I thank you, Chair, for your assistance in this afternoon's session.

The Vice-Chair: Shall Bill 12, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Thank you. The committee is adjourned.

The committee adjourned at 1743.

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STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

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Mr George Smitherman (Toronto Centre-Rosedale / Toronto-Centre-Rosedale L)

Also taking part / Autres participants et participantes

Mr Ryan Bailey, Ministry of Consumer and Business Services, legislative assistant, issues management

Mr Scott James, Ministry of Consumer and Business Services, manager, industry liaison

Mr Ben Osemeke, Ministry of Consumer and Business Services, senior policy adviser

Clerk pro tem/ Greffier par intérim

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Wednesday 27 June 2001

Journal des débats (Hansard)

Mercredi 27 juin 2001

**Standing committee on
justice and social policy**

**MPP Compensation Reform Act
(Arm's Length Process), 2001**

**Comité permanent de la
justice et des affaires sociales**

**Loi de 2001 portant réforme
de la rétribution des députés
(processus sans lien
de dépendance)**

Chair: Toby Barrett
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY

Wednesday 27 June 2001

*The committee met at 0900 in committee room 2.*MPP COMPENSATION REFORM ACT
(ARM'S LENGTH PROCESS), 2001LOI DE 2001 PORTANT RÉFORME
DE LA RÉTRIBUTION DES DÉPUTÉS
(PROCESSUS SANS LIEN
DE DÉPENDANCE)

Consideration of Bill 82, An Act to amend the Legislative Assembly Act to provide an arm's length process to determine members' compensation / Projet de loi 82, Loi modifiant la Loi sur l'Assemblée législative pour établir un processus sans lien de dépendance permettant de fixer la rétribution des députés.

The Chair (Mr Toby Barrett): Good morning, everyone. It is now 9 o'clock. I welcome everyone to this regular meeting of the standing committee on justice and social policy. Our agenda item is to consider clause-by-clause—

Mr Peter Kormos (Niagara Centre): On a point of order, Mr Chair.

The Chair: I'll just finish reading this, sir—Bill 82, An Act to amend the Legislative Assembly Act to provide an arm's length process to determine members' compensation. I will put the question, but I have a point of order from Mr Kormos.

Mr Kormos: I have an amendment to move.

The Chair: That's not a point of order. I can read in part the standing orders that would explain that, if you wish, and I can refer specifically to amendments: "... the standing committee on justice and social policy shall be authorized to meet at 9 am on Wednesday, June 27, 2001 for clause-by-clause consideration of the bill;

"That, at 9 am on this day, the Chair shall put every question necessary to dispose of this stage of the bill without further debate or amendment...."

Mr Kormos: I'm sorry. That means that—

The Chair: Is this a point of order?

Mr Kormos: I wanted to make it clear that the time allocation motion precludes me from moving any amendments. Is that correct?

The Chair: That's not a point of order. I did read the standing order. I think everyone understands that. There is no debate and no amendment.

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Mercredi 27 juin 2001

Mr Kormos: On a point of order, Mr Chair: A committee meeting with no debate is hardly a committee meeting. I submit to you that there is an as-of-right opportunity for members to debate bills before a committee.

The Chair: That's not a point of order, and I might mention as well that on a point of order there's no debate required either.

Mr Kormos: Is there debate permitted?

The Chair: Is that a point of order, Mr Kormos?

Mr Kormos: Chair, is debate permitted?

The Chair: What's the rest of that sentence?

Mr Kormos: Is debate permitted?

The Chair: No.

Mr Kormos: Thank you, Chair.

The Chair: I will now put the question on section 1.

Mr Kormos: Recorded vote.

The Chair: I hear a request for a recorded vote. Accordingly, section 1 will be deferred. I will now put the question on section 2.

Mr Kormos: Recorded vote.

The Chair: A recorded vote. Section 2 is deferred. I may suggest to the committee, is there a request that all the votes be recorded votes?

Mr Kormos: Yes, sir.

The Chair: OK. All votes will be recorded votes.

We will now refer back to section 1 of the bill, and I will put the question yet again. I'll just pause for a moment. We have a sub-issue to deal with.

Mr John Gerretsen (Kingston and the Islands): On a point of order, Mr Chairman: It was very difficult to find this committee room this morning. The usual signs that are posted outside the doors telling you that there's a committee—

The Chair: That's not a point of order.

Mr Gerretsen: That's not a point of order, not knowing where the meeting is going to be held?

The Chair: That's not a point of order.

Mr Garry J. Guzzo (Ottawa West-Nepean): On a point of privilege, Mr Chair: When you come from a big town like Kingston, getting around is difficult.

Mr Gerretsen: Oh, go back to Ottawa.

The Chair: I repeat, I shall now put the question to section 1. Shall section 1 carry?

Ayes
Beaubien, Bryant, DeFaria, Gerretsen, Guzzo,
Wettlaufer.

Nays

Kormos.

The Chair: I declare section 1 carried.
Section 2: Shall section 2 carry?

Ayes
Beaubien, Bryant, DeFaria, Gerretsen, Guzzo,
Wettlaufer.

Nays

Kormos.

The Chair: I declare section 2 carried.
Section 3: Shall section 3 carry?

Ayes
Beaubien, Bryant, DeFaria, Gerretsen, Guzzo,
Wettlaufer.

Nays

Kormos.

The Chair: I declare section 3 carried.
Section 4: Shall section 4 carry?

Ayes
Beaubien, Bryant, DeFaria, Gerretsen, Guzzo,
Wettlaufer.

Nays

Kormos.

The Chair: Section 5: Shall section 5 carry?

Ayes
Beaubien, Bryant, DeFaria, Gerretsen, Guzzo,
Wettlaufer.

Nays

Kormos.

The Chair: I declare section 5 carried.

Shall the long title of the bill carry?
Mr Kormos: Recorded vote.
The Chair: Yet again, a recorded vote.

Ayes
Beaubien, Bryant, DeFaria, Gerretsen, Guzzo,
Wettlaufer.

Nays

Kormos.

The Chair: The long title of the bill carries.
I will pose the next question: Shall Bill 82 carry?
Mr Kormos: Recorded vote.

The Chair: We'll have a recorded vote. Shall this motion carry?

Ayes
Beaubien, Bryant, DeFaria, Gerretsen, Guzzo,
Wettlaufer.

Nays

Kormos.

The Chair: Bill 82 carries.
Final question: Shall I report the bill to the House?
Mr Kormos: Recorded vote.
The Chair: There's a request for a recorded vote.
Shall I report the bill to the House?

Ayes
Beaubien, Bryant, DeFaria, Gerretsen, Guzzo,
Wettlaufer.

Nays

Kormos.

The Chair: I shall report this bill to the House.
Mr Gerretsen: On a point of order, Mr Chair: Before you declare the proceedings closed, I just want to go on the record as totally disagreeing with the process in which this has been handled; not with your chairmanship, which I think has been very well-handled, but the fact that we come to committee and can't even discuss a bill, I think, is an absolutely undemocratic way of handling it.

The Chair: For the record, that's not a point of order.
Thank you, committee members. This committee is adjourned.

The committee adjourned at 0908.

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Wednesday 29 August 2001

Journal des débats (Hansard)

Mercredi 29 août 2001

**Standing committee on
justice and social policy**

Subcommittee report

Portable Heart
Defibrillator Act, 2001

**Comité permanent de la
justice et des affaires sociales**

Rapport du sous-comité

Loi de 2001 sur les défibrillateurs
cardiaques portatifs



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICYCOMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Wednesday 29 August 2001

Mercredi 29 août 2001

The committee met at 0906 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr Toby Barrett): Good morning, everyone, and welcome to our first day of regular meetings of the standing committee on justice and social policy. Our agenda for the next two days is to consider Bill 51. Our first order of business would be the report of the subcommittee. It's a full page. Mrs Molinari, would you read through that for us?

Mrs Tina R. Molinari (Thornhill): Your subcommittee met on Monday, July 30, 2001, to consider the method of proceeding on Bill 51, An Act to help save the lives of Ontarians who suffer from cardiac arrest by promoting the widespread availability and use of portable heart defibrillators in public places, and recommends the following:

(1) That the committee schedule public hearings in Toronto on August 29 and in Ottawa on August 30, 2001.

(2) That the committee commence its clause-by-clause consideration of the bill after the House comes back.

(3) That the clerk place an advertisement on the Ontario parliamentary channel and on the Internet. If possible, an advertisement will also be placed in the major English and French newspapers in Windsor, London, St Catharines, Sudbury, Sault Ste Marie, Thunder Bay, Ottawa, Kingston and Hamilton. In Toronto, an advertisement will also be placed in the four major daily English newspapers and an attempt will be made to place it in the largest French newspaper.

(4) That groups be offered 20 minutes in which to make their presentations, and individuals be offered 10 minutes in which to make their presentations.

(5) That everyone interested in making a presentation be scheduled. If scheduling problems arise, the Chair will provide direction.

(6) That each party may submit a list of people interested in making a presentation to the clerk by August 22, 2001. If the agenda is not full, additional names can be added after this date.

(7) That the deadline for making a request to appear before the committee be August 22, 2001.

(8) That the deadline for submitting written submissions be August 30, 2001.

(9) That the Chair pay reasonable requests by witnesses to have their travel expenses paid.

(10) That the Minister of Health and Long-Term Care and/or appropriate staff be offered 60 minutes in which to make a presentation. Following the minister's/ministry's presentation, each party will be offered 10 minutes to make statements and ask questions.

(11) That the research officer prepare a background paper containing information on the technology and on programs in other jurisdictions. The background paper will also include information from relevant ministries. The research officer will also prepare a summary of recommendations.

(12) That the clerk be authorized to begin implementing these decisions immediately.

(13) That the information contained in this subcommittee report may be given out to interested parties immediately.

(14) That the Chair, in consultation with the clerk, make any other decisions necessary with respect to the committee's consideration of this bill. The Chair will call another subcommittee meeting if needed.

Mr Chair, do you need a motion to accept the report?

The Chair: Yes, thank you.

Mrs Molinari: I so move.

The Chair: We have a motion to accept the report of the subcommittee. Those opposed? Seeing none, carried. I declare that order of business closed.

PORTABLE HEART
DEFIBRILLATOR ACT, 2001LOI DE 2001 SUR LES DÉFIBRILLATEURS
CARDIAQUES PORTATIFS

Consideration of Bill 51, An Act to help save the lives of Ontarians who suffer from cardiac arrest by promoting the widespread availability and use of portable heart defibrillators in public places / Projet de loi 51, Loi visant à contribuer à sauver la vie des Ontariens qui souffrent d'un arrêt cardiaque en promouvant la disponibilité et l'usage généralisés de défibrillateurs cardiaques portatifs dans les lieux publics.

MINISTRY OF HEALTH
AND LONG-TERM CARE

The Chair: Our next order of business will be a presentation from the Ministry of Health and Long-Term Care, and for the information of the committee, I would

ask the gentlemen at the witness table if you could, in a fairly loud voice, and please use the microphone, identify yourself and your department or area of expertise.

Mr Malcolm Bates: My name is Malcolm Bates. I am a director of emergency health services from the Ministry of Health and Long-Term Care.

Mr David Vusich: My name is David Vusich. I work for the emergency health services branch of the Ministry of Health and Long-Term Care and I'm the manager of education services.

Mr Dennis Brown: Good morning. My name is Dennis Brown. I'm the manager of land ambulance programs with the emergency health services branch.

The Chair: Thank you, gentlemen. If you wish to proceed with a bit of a briefing for our committee.

Mr Bates: This morning we'd like to present to the committee a technical overview of public access defibrillators, or PAD as it's otherwise known publicly.

We hope to bring you some facts relating to PAD that may assist you in your deliberations on Bill 51. We have provided a series of slides for your review, but before reviewing those slides, I'd like to provide a short background of advanced life support in Ontario. A long-standing basis of the Ministry of Health and Long-Term Care has been a policy that the effectiveness of a new medical skill or a new program must be proven before it's implemented province-wide. It is this policy that led to the carefully timed implementation of a defibrillation program for paramedics and the announcement of the Ontario Prehospital Advanced Life Support Study, otherwise known as OPALS.

In the 1990s, after receiving study results which were convincing, the ministry trained over 4,000 paramedics in the life-saving skill of defibrillation. I am pleased to tell you that every ambulance in the province carries a defibrillator.

Ontario leads the world in paramedic research. The OPALS Study, commenced in 1994, evaluates the health benefits of advanced-care paramedic services to patients. We are showing what paramedic skills, whether it be defibrillation or advanced airways, will help victims of cardiac arrest in an outside-the-hospital environment. This study will involve more than 25,000 patients by the time it is completed.

A major part of the OPALS Study is the optimization of pre-hospital defibrillation by the emergency medical support system in Ontario. This optimization has resulted in the improvement of overall survival of patients from 3.9% to a current 5.2%. In essence, defibrillation works and it also can be optimized under the right circumstances.

I think another important point I should mention is that effective January 1 of this year, responsibility for land ambulance delivery was transferred from the province to the municipal level. This was a smooth transition that has resulted in the enhancement of local decision-making in the provision of emergency medical services such as defibrillation.

This then leads me to a set of slides that we have provided for the committee, and I hope you all have your copy in front of you. Again, this is related to public access defibrillation, and it's a technical overview.

I refer you to page 2. On this page are the areas that we will elaborate upon. We have a defibrillator available with us today and, with your agreement, we'd like to provide you a practical display of what a portable heart defibrillator does and how it works. On page 2, in the next hour we're going to be looking at Bill 51 requirements: what is a portable heart defibrillator; how they work; some facts relating to PAD in Ontario and PAD in other jurisdictions, costs associated with PAD, training issues and some potential risks, as we see them.

Moving on to page 3, we see the requirements of Bill 51. Bill 51 requires of the public and private sectors the implementation of automated heart defibrillators in all public buildings and selected private buildings with public access, such as shopping areas, stadiums, casinos, gaming facilities, airports and recreation centres.

In particular with respect to the Ministry of Health and Long-Term Care, it calls for the development and publishing of guidelines for portable defibrillator use and maintenance in conjunction with emergency service stakeholders, and the development of a training program or protocol in the use of portable defibrillators, with, of course, stakeholder input.

Page 4 indicates what a portable heart defibrillator is. While it's a machine, of course, it's a machine that is capable of monitoring heart rhythms and recognizing a cardiac arrest when a cardiac arrest has occurred in the patient. It determines, without intervention from an operator, whether defibrillation should be performed. It gives automated voice instruction—and you'll hear that this morning—to the operator of a machine to administer an electric shock to a victim's heart. The shock will hopefully restart the victim's heart to allow resumption of blood flow to the body.

With us is Mr Vusich. Mr Vusich has been working in the emergency health field for a number of years. He's our education and training manager. He's fully conversant with defibrillation and the utilization of defibrillators. So I'll pass it over to Dave, and Dave will go through how a portable defibrillator works and show you what it's all about.

Mr Vusich: Thank you for this opportunity. As Malcolm mentioned, I did bring along a portable defibrillator with me. I would just like to preface this with making mention that this is one particular model of defibrillator. As you're aware, there are several different manufacturers of defibrillators in the market today. The one we have brought is not to say that we are endorsing one and not to say that we have a preference for one over the other; it's simply that this was one we could bring along as an example for you.

Slide 5 talks about the portable defibrillators. I'd like to go through, first of all, slides 5 and 6 and talk our way through them. Then, if the committee would like, we could actually see the defibrillator and, if you wanted to

hear it, we could run through a simulated scenario to give you that understanding.

In a sudden cardiac arrest situation, the responders who have access to a portable heart defibrillator would arrive at the patient's side, and it's very important that a responder would be able to assess and acknowledge that the patient is unresponsive, that there is no breathing and that there is an absence of a pulse. That is important. The rescuer then would initiate CPR on the victim. CPR is still a very important link in this chain of survival and CPR is certainly an important part of public access defibrillation programs.

If there was more than one rescuer, CPR could continue while the second rescuer was able to open the defibrillator to turn it on and connect it to the patient. That means a connection of two electrodes on the chest of the patient, and then the cables, by a wire, would be connected to the defibrillator itself. Once that is in place, everybody must stop making contact with the patient. CPR would cease at that point.

The machine would then do what's called analyzing. At this particular point in time the computer software within the machine is actually able to read the electrocardiogram or the electrical activity of the heart and analyze that particular rhythm. It is important that it is looking for two particular rhythms that will allow the machine to actually shock the patient. These electrical cardiac rhythms are called ventricular fibrillation, or V-fib for short, or ventricular tachycardia, known as V-tach for short. Specifically, it is looking for V-tach over 180 beats per minute.

Once the machine is connected to the patient and analyzing has occurred, you will notice, on slide 6, that one of two things may happen. The machine will analyze and it will either direct the rescuer to a shock situation or that there is a no-shock situation. If the machine interprets one of these two rhythms that I mentioned—V-fib or V-tach over 180—the machine will advise as to a shock. It will automatically charge and then prompt the rescuer to push the button to deliver the electrical shock to the patient, at which time the rescuer would have to push a button to deliver that energy. It's crucial that no one is making contact with the patient at that time.

0920

After that shock is delivered, the machine will wait a few seconds and then it will analyze the heart rhythm again. If appropriate, if the patient is still in V-fib or V-tach over 180, it will again recommend a shock. It will charge and allow the rescuer to push a button and deliver a second shock. Again, it will follow with another analysis and, if appropriate, deliver a third shock.

Many machines, especially for public access defibrillation, have a built-in protocol. After the third shock, the machine will pause. This pause will last for one minute, during which time the rescuer is directed to check the airway, check for breathing and check for pulse and, if needed, to provide CPR. As I made mention, CPR is very important in this link of survival for defibrillation. CPR provides the oxygenation and the circulation that keeps the heart viable for a longer period of time. In fact, they

have found that CPR actually lengthens the time that the patient's heart will stay in fibrillation, which increases the chances of survival.

The rescuer is prompted to check the patient and, if required, to begin CPR, and will do so for one minute, at which time the machine will again recommend that everybody stand clear. It will analyze and, again, if appropriate, will charge and allow the rescuer to deliver a shock.

There are times that, when the machine analyzes, it will not see either ventricular fibrillation or ventricular tachycardia over 180 beats a minute. If that is the case, it will not recommend a shock, it will not charge and it will not allow the rescuer to deliver energy to the patient's chest. In that case, the machine will typically direct the rescuer to check the airway, check the breathing and check for pulse and, if necessary, provide CPR.

Depending on the machine, depending on the protocol, some will automatically continue to analyze in the background, always looking for one of those two rhythms that are shockable. Other machines rely on the rescuer to analyze by pushing a button at different stages—every minute or perhaps every two minutes depending on the protocol that's built in.

That cycle of analyzing the patient and delivering shock will continue, if appropriate, in one of those two shockable rhythms or, if not shockable, it will direct the rescuer to continue on with CPR. That would be expected to continue until the arrival of the ambulance services.

Mr Chair, if you would like, I have one here. I'm not sure if the committee would like to see one or if they would actually like to hear the scenario it may go through in a shock sequence.

Mr Steve Gilchrist (Scarborough East): I think we can volunteer Mr Colle.

Interjections.

Mr Vusich: The good news is that the machine will do it with nobody attached.

Just for your visualization, to begin with, you will see that they are very small and very lightweight as public access defibrillators. They are certainly not as large as the ones you would see in hospital use or even that the paramedics would carry. They are designed specifically for the role of public access defib programs.

The particular scenario we're about to go through will take approximately two minutes. What you will hear in this example is the rescuers who have arrived at a patient. They have acknowledged that the patient is unresponsive, has no breathing, has no pulse. CPR has been initiated and now, as the second rescuer, I would be able to turn on the machine.

As it goes through, you will hear that the machine is actually analyzing. You will hear it advise to stand clear and to deliver shock. In this particular scenario, you're going to hear those three consecutive shocks in a row and then the pause for one minute for CPR. Then you will also hear how, after that one minute, the machine automatically engages again, advises to stand clear and does another analysis and shock, at which time we

actually revive the patient. So we have a winner here. We're kind of cheating. I know that he's going to win.

Automated voice: Apply pads to patient's bare chest. Have your pads connected next to flashing light. Apply pads.

Mr Vusich: Most of the pads come connected, with the wires already on. Some even have pictures of exactly where to place them on the patient's chest. Once that is in place, the connector goes into the machine.

Automated voice: Analyzing heart rhythm. Do not touch the patient.

Shock advised. Charging. Stay clear of patient. Deliver shock now. Press the orange button now.

Mr Vusich: The shock will not deliver until I personally push that button.

Automated voice: Shock delivered. Analyzing heart rhythm. Do not touch the patient.

Shock advised. Charging. Stay clear of patient. Deliver shock now. Press. Shock delivered.

Analyzing heart rhythm. Do not touch the patient.

Shock advised. Charging. Stay clear of patient. Deliver shock now. Press the orange button now.

Mr Vusich: This is the third shock, so you'll notice what it does differently.

Automated voice: Shock delivered. Paused. It is safe to touch the patient. Check airway. Check breathing. Check pulse. If needed, begin CPR.

Mr Vusich: So the machine is now in a one-minute pause for that CPR, again being such an important link. During that time, certainly the rescuer would again check the airway, check for breathing and, if necessary, give rescue breathing, check for the pulse and, if necessary, begin cardiac compressions. The machine will take you through that one minute, this particular model, and most do. It will take you through that one minute and let you know when it's over.

Just a few observations as we go along, during this one minute. Notice that the machine is quite lightweight. Mr Brown is not having too much difficulty holding it up this entire time. This particular device only weighs about five pounds. The advent of lithium batteries that are non-rechargeable, long-life, has certainly made these machines much lighter and easier to use in that way.

This particular device uses a slightly different—

Automated voice: Analyzing heart rhythm. Do not touch the patient.

Shock advised. Charging. Stay clear of patient. Deliver shock now.

Shock delivered. Analyzing heart rhythm. Do not touch the patient.

Mr Vusich: This will change a little bit, because in this particular case the patient's electrical cardiac rhythm has now changed.

Automated voice: Analyzing heart rhythm.

Mr Vusich: It is no longer in what we call a shockable rhythm. The machine can identify—

Automated voice: No shock advised. It is safe to touch the patient. Check airway. Check breathing. Check pulse. If needed, begin CPR.

Mr Vusich: So in that particular case, after the shock, it analyzed and found that there was not a shockable rhythm, and in fact what the screen was actually demonstrating there would be an electrical rhythm that was very likely generating a pulse. At that time, when it was a non-shockable rhythm, the rescuer would again check airway, check breathing, check pulse and, if needed, begin CPR. Hopefully, though, in this particular case the pulse had been restored, the beating heart was now generating a pulse, and the machine has succeeded, along with the rescuer, in accomplishing its task.

Mrs Lyn McLeod (Thunder Bay-Atikokan): What if there was no rhythm?

Mr Vusich: If there was absolutely no rhythm?

Mrs McLeod: Yes.

Mr Vusich: There's a name for that; it's called asystole, or what a lot of people would call flatline. People quite often will see on TV a demonstration where the cardiac monitor is connected and it's absolutely flatline across. That is not a shockable rhythm.

That's an important thing to make mention of with defibrillators. A lot of people, in trying to explain it to the public, will say that a portable heart defibrillator will actually jump-start the heart. That's completely wrong. When a patient is in ventricular fibrillation, there is a lot of electrical activity, but it's chaotic. It's not controlled any more; it's completely chaotic. Because all the cells of the heart are firing at their own independent stage, the heart doesn't actually compress and generate a pulse, so there's no circulation of the blood flow. When you see flatline on the screen, or asystole, there is no electrical activity whatsoever, and a defibrillator will not get that started again. You need all the extra enhancements, such as cardiac medication, that the advanced-care paramedics or hospital staff will be able to provide.

Mrs McLeod: What does the machine say then?

Mr Vusich: What does it say? It simply says, "No shock advised." There's no requirement on the rescuer's part to be able to analyze the rhythm itself; the machine does. You only get two messages from the machine: either "Shock advised" or "No shock advised." Those are the only two messages.

0930

The Chair: Is there further content in your presentation?

Mr Bates: Yes. I'll carry on, Mr Chair. I refer you to page 7 of the slides. On page 7 we have some facts relating to public access defibrillation in Canada and Ontario. It's important to note that PAD is still the subject of ongoing study by the emergency medical community. Having said that, we know that nearly 40,000 Canadians die each year from cardiac arrest. Less than 5% of the people who suffer cardiac arrest outside of a hospital survive. As I think we noticed from the demonstration by Mr Vusich, time is of the essence when it comes to cardiac arrest. For every minute that elapses between a cardiac arrest, 10% of the victims who might be saved are lost. Most victims who suffer cardiac arrest that are not treated within 10 minutes die. So it's

absolutely vital that the service—the CPR and the defibrillation—arrive at the side of the patient quickly.

Most emergency services—ambulance and fire—are not able to get to a cardiac arrest victim quickly enough. Eight to 12 minutes is about the average response time of the ambulance personnel in North American urban areas. The fire departments generally get there a little quicker if they have a defibrillation service. Twenty-six per cent of our fire departments in Ontario and 1% of our police departments carry portable heart defibrillators on their emergency response vehicles.

I should mention that much of this, the fact that fire departments carry defibrillators—a number of them, in any case—is due to the OPALS Study project that I mentioned earlier. One part of the OPALS Study was to optimize response, and that was in the selected communities that OPALS pertains to, to ask the fire departments, and they all did, to carry portable defibrillators with them, and they were trained to utilize them. That's one main reason why we saw, as I mentioned earlier, the survival rate increase in the OPALS communities.

Some estimates suggest that if made widely available in high-risk populations, portable heart defibrillators could save thousands of lives a year across Canada. I think that's why we're here today.

At page 8 we carry on with PAD in Canada and Ontario. As we mentioned, to increase the survival rate from cardiac arrest, access to a defibrillator must occur as soon as possible. As we heard from Mr Vusich and we heard through the defibrillator demonstration, rapid defibrillation also requires that cardiopulmonary resuscitation, or CPR, be provided to a victim.

Rapid AED is one of the essential links in what's called the chain of survival that's adopted by the Heart and Stroke Foundation. I see on the agenda that you'll hear from the Heart and Stroke Foundation later today. That chain of survival includes recognition, calling 911, CPR, defibrillation and advanced cardiac life support. As Mr Vusich referred to with respect to the asystolic rate, you need advanced cardiac life support medication as well.

The Ministry of Health and Long-Term Care staff, I should mention, are in fact working with the Heart and Stroke Foundation and other stakeholders on a report on automatic external defibrillation, and I expect you'll hear from the Heart and Stroke Foundation in more detail later today.

Three Ontario programs in communities in Ottawa, Windsor and Toronto have implemented PAD programs targeted at select groups of individuals and public locations. These programs, I understand, will also be presented to the standing committee today or tomorrow.

It's important to think about and review what has happened in other jurisdictions with respect to public access defibrillation. I think it's important to note each one of the things that we have on page 9 and page 10. There is a major effort underway to study and determine the value of PAD in 21 US cities and metropolitan areas and six Canadian urban centres, primarily, however,

Vancouver, Calgary and Edmonton in Canada. This is through the National Heart, Lung, and Blood Institute in the United States and the American Heart Association. It's a two-and-a-half-year study. It commenced last year. It's underway at the present time. We're awaiting the results of that study.

All PAD programs are based on the chain of survival that we previously mentioned. In November of 2000, then-President Clinton in the United States signed into law a bill to encourage the use of AEDs in public buildings and to limit liability for those who use them. That set the stage. Other states had already been passing into law various pieces of legislation related to public access defibrillation, but the national stage was set by President Clinton last year.

In all US states but one, AEDs are classified as medical devices and require the oversight and authorization of a physician for use. All known public access defibrillation programs are targeted—the word “targeted” is important, we believe—at using specific groups of persons or workers, such as civic workers, security personnel, public safety workers, customer service employees, as first responders.

There have been two major research studies in the last two years that have been completed in the United States. They both used targeted workers. One was with respect to American Airlines, and they trained 22,000 flight personnel to utilize portable heart defibrillators. Another was with respect to a series of casinos in the United States where they trained security staff. In that case the security staff were no more than three minutes away from all parts of those casinos they looked at, and they were able to show a high survival rate for most people who were in fact defibrillated during the study period. Most PAD programs are targeted at specific public facilities with a track record of cardiac arrest incidents, such as casinos.

Moving on to page 10, all PAD programs require that AEDs be used by individuals with proper training and certification to use such devices. US jurisdictions have made CPR training a prerequisite for AED implementation. All require a maintenance plan for ensuring availability and performance of AEDs when the public has access to the building.

As I mentioned, jurisdictions with PAD programs generally have all established legislated liability protection for responders and building owners, sometimes termed “Good Samaritan” legislation. Some jurisdictions, such as Wisconsin, require that AED owners register with local emergency medical services.

I think I can see from the other jurisdictions that, first of all, we're very early on the lifespan of the PAD programs. The small patient pools, such as the airline and casinos, that have been completed are relatively very small in terms of research: 200 or 300 patients on the airline, for instance, versus, as I mentioned, in the OPALS Study we're looking at 25,000 patients. So there's been limited research on the most effective use of PAD. Plus, it's not been ongoing for more than two years, and

generally major research such as OPALS requires at least three years of data on cardiac arrest patients.

Having said that, there is strong support for the argument that public access defibrillation and portable heart defibrillators represent an important addition to pre-hospital cardiac arrest care.

0940

It's important to note as well that there are two possible approaches to a public access defibrillation program. I mentioned the targeted responder. We went through and indicated, in effect, all the US jurisdictions basically say they must have targeted responders, whether it be flight attendants, casino security staff, civic workers and the building security staff in Queen's Park. Whatever the case may be, they are targeted first responders who are properly trained.

There is also the off-the-wall or fire-extinguisher approach that is a possibility as well. Anyone walking into a building might have access to a defibrillator. It's not difficult to use, but nonetheless one has to consider the training aspect of it.

As we read Bill 51, it provides for both training and the use of defibrillation by visitors to buildings.

Slide 11 discusses briefly some of the costs associated with PAD. It's difficult to assess the overall costs that we might experience in the province at this point in time, but we can tell you that there are some basic costs that we know would be incurred: the cost to install and maintain AEDs in each building, including recapitalization. One of these defibrillators generally costs about \$5,000 or thereabouts. The expected lifespan of such a defibrillator is seven to 10 years, regardless of use. The pads that Mr Vusich showed you cost \$35 a pair. They have a shelf life of about two years, regardless of use. The cost to train staff or others as responders to always be available while the public have access to the site: the cost of training for CPR and automated external defibrillation service is about \$200 per person. Something to remember is that we're going to have an annual staff turnover no matter where you are. Whether it be a casino or a public building, the staff will turn over and there will have to be a continuous training program.

Training issues are briefly discussed on page 12. PAD and AED responder training programs and protocols have already been developed and adopted by the Heart and Stroke Foundation of Ontario. Once more, you will probably hear about that later today. Training programs are already being delivered by the Heart and Stroke Foundation, the Red Cross and St John Ambulance, and there are a variety of private first aid and CPR training businesses, some of which I think you will also hear from today or tomorrow.

Finally, we list for you on page 13 some of the potential risks that should be considered. Risk and liability potential related to PAD and AED use may occur in the following areas:

Of course, the maintenance and replacement of an AED; it's very important that each one of these machines is maintained properly.

That availability of replacement batteries and pads is ensured by someone who is authorized for it.

Responder training and the maintenance of skills.

The easy identification and access to equipment and trained responders.

There is the possibility of injury caused to a bystander arising from the use of an AED.

It could happen that an AED could be used on a person not in cardiac arrest.

The long delay, of course, from collapse to initiation of use of an AED is something that is a potential risk. As we've said, it's very important that cardiac defibrillation be applied to a patient within three or four minutes.

AED malfunction could occur during application.

Loss of AED by theft. You'll find that in most instances, like at O'Hare airport in Chicago—most of you will have heard of it—they have something in the vicinity of 33 portable defibrillators throughout the airport and they are all alarmed because, although they may be visible and easily accessible, theft is a potential.

A final risk might be the attempted use of an AED in the presence of DNR orders.

I might just say that in Bill 51, as we see it, there is some protection from liability as it now stands. Some jurisdictions, I should point out as well, in their Good Samaritan legislation—and you might wish to consider this—also provide the training for public access defibrillation, portable defibrillators, in those who maintain the equipment. I think those are two areas that you might wish to consider including in Bill 51.

Thank you, Mr Chairman. That concludes our presentation this morning.

The Chair: Thank you, gentlemen. I wonder, just for the purposes of Hansard, could you explain again what AED and PAD stand for?

Mr Bates: PAD is public access defibrillation; an AED is an automated external defibrillator; and DNR means "Do not resuscitate," currently in effect in many areas of Ontario.

The Chair: CPR, ECG?

Mr Bates: Cardiopulmonary resuscitation.

Mr Mike Colle (Eglinton-Lawrence): The OPALS study program: could you please outline what those letters stand for as well?

Mr Bates: Ontario Prehospital Advanced Life Support Study. It is led by Dr Stiell, who is based in Ottawa.

The Chair: And ECG, just for the record?

Mr Bates: Electrocardiogram.

The Chair: Thank you, gentlemen. At this point in the agenda, we've allocated 10 minutes per party for statements and questions. We'll begin with Mr Colle.

Mr Colle: I certainly, first of all, want to thank all members of the Legislature present today and the ministry staff present today, because I think in the province of Ontario and in this Legislature we're breaking new ground. This is the first comprehensive look at the potential to use these life-saving devices. I think you're doing a great service by presenting us with this background technical information that will be of use not only

in Ontario, as we look at this in this Legislature, but right across the country, whether it be federal or provincial. So I want to thank you for putting all that valuable information on the record which can be used to better inform other practitioners and the public and interested parties. I certainly appreciate your coming here today and the ministry allowing you to come to make this presentation.

Just before I ask a couple of questions, I think the essence of all this is that we are on the verge of a technological breakthrough in many areas of health care. I think this is one example where technology might be able to save lives and also in the long run make the delivery of emergency services and medical and hospital services much more cost efficient and much more direct.

We owe it to ourselves and to the people of Ontario to examine this type of technology and other technologies to see if it can save lives, save time and money in hospital care and at the same time support the men and women who deliver pre- or post-hospital care or emergency services, in essence deliver life-saving support. This is the essence of this legislation and why we're here today. That is really said in a very non-partisan way. As the Legislature supported Mr Gilchrist's bill earlier, the Good Samaritan legislation, I think we're legitimately examining Bill 51 as a way of really helping Ontarians who face cardiac arrest and doing it in a way that will save their lives, which is quite dramatic, as we've seen in the Woodbine Racetrack casino, where we've had up till now four or five direct saves as a result of these portable defibrillators being available and the staff being trained there. So we have direct evidence there. As you referred to in your comments, we have direct evidence of the dramatic increase in saves in the casino study in the United States. So there is a potential here, and I think the preliminary evidence and studies prompted the United States government to pass their comprehensive legislation allowing defibrillators to be available in federal buildings and also to be available in rural communities, and that's another area of great interest. The response time on average in urban communities I think is about eight to 10 minutes. Do we have any data on the response time for emergency services in rural communities?

0950

Mr Brown: In rural areas of Ontario it can range from 12 to 18 minutes on average and in remote or northern areas it can go beyond that, depending on distance.

Mr Colle: That really brings into question that 10-minute threshold, that it's critical, and the ability perhaps to provide portable heart defibrillators in some of those communities. It's literally impossible in northern Ontario and even central Ontario to get the emergency services there in that 10-minute threshold. I think that is critical in terms of looking at this potential legislation.

The other thing I want to ask: in terms of the OPALS Study, you mentioned that in some of the communities that were using or were trained in defibrillation, there was a save rate. Could you give me that again, please? Just put on the record again the improvement in the survival rate. What was that?

Mr Bates: From about 3.9% to 5.2%.

Mr Colle: Can you explain those percentages for me, please?

Mr Bates: Yes, 3.9% of the patients who suffered cardiac arrest and were attended to by emergency medical personnel, and it increased to 5.2% as a result of the efforts through the optimization of the OPALS program. A number of different actions were taken, one of which was of course redeployment of ambulances. A major part of it was the training of fire staff in the OPALS communities and their quick response. You will realize that the fire departments have a quicker response than ambulances in most communities, and the firemen who are trained in defibrillation have proven to considerably improve the survival rate. That was part of the OPALS Study.

Mr Colle: And that was with the emergency services personnel like fire—volunteer fire departments or local fire departments—and other emergency personnel having the defibrillator devices on their vehicles?

Mr Bates: That's correct, and being fully trained in the utilization of defibrillators.

Mr Colle: Right. And this would not have included the deployment or availability of defibrillators in, let's say, the local arena or the local municipal building.

Mr Bates: Generally that's right; that's correct.

Mr Colle: I guess that's the missing piece that I'm trying to include in this legislation.

I would think that the other important thing is in terms of training. Is there a need to have ongoing—you mentioned \$200 to train someone in delivering defibrillation. How often do you think it would be necessary, given your experience with the OPALS program, in terms of retraining, and what intervals would be required?

Mr Vusich: If we use CPR as a reference point, the Heart and Stroke Foundation of Ontario recommends annual retraining in CPR skills for a lay rescuer. There's been no recommendation yet as far as public use of defibrillators. However, I can make reference to the paramedics in Ontario, who are recertified on an annual basis to ensure their competency is there. With lay rescuers in a PAD program, because they would not be doing this on a regular basis, certainly many programs recommend, after the initial training, a review program within six months and then perhaps on an annual basis from there.

Mrs McLeod: I have a couple of questions. I appreciate the fact that it was important to outline some potential risks as well. But I didn't understand one of the risks, and that was the fact there could be inadvertent use on somebody who doesn't need it. I thought you said the machine would not allow that to happen.

Mr Vusich: For the most part, no. The machines are very well designed and the computer software is very well developed. However, they're still machines, and you can always fool a machine. The key component to a defibrillating training program as it exists is to ensure that this is not connected to a patient who has a pulse, which implies that the rescuer must be trained and capable of assessing the patient for pulselessness. It's

especially important in light of the new changes to the CPR protocols for lay responders, what we call the general public, in that pulse checks are no longer even taught to the lay rescuer during a CPR course.

The problems that can occur from an automated external defibrillator: I made mention that it looks for two particular rhythms. One is ventricular fibrillation and one is ventricular tachycardia over 180. With ventricular fibrillation there is no pulse, so that is not a concern. But it is possible for a patient in ventricular tachycardia over 180 beats a minute to still have a pulse. That patient may or may not be conscious, but they could still be generating a circulatory flow of blood by a pulse.

The machine only reads electrical activity. It relies on the rescuer to know whether or not there's a pulse. If the rescuer does not identify the presence of a pulse and connects the defibrillator to a patient who is V-tach over 180, that machine will charge and allow the rescuer to deliver shock, which may in fact stop the heart that is currently beating. That's one potential.

Another potential is that it's important that all rescuers and all family members leave the patient, have no contact whatsoever during the analysis in the shock phase. You can fool the machine. I've actually used this in demonstrations, where I've connected the machine to myself, and by making enough contact with the pads, I've been able to fool the machine into thinking that I was in ventricular fibrillation and it actually charged. If somebody had pushed the button, I would have received a shock myself.

A third potential risk with the false shock is the use of portable radios. We train paramedics, with the portable radios that they carry, that you can receive but you cannot transmit if you're within six feet of the machine while it is analyzing. If you have a security guard or somebody else who is on the scene who actually transmits on a portable radio, it may fool the machine again into thinking there's a shockable rhythm and allow the rescuer to deliver that energy to the patient.

Mrs McLeod: You mentioned that all ambulances in Ontario are now equipped with defibrillators. Does that apply to volunteer emergency response teams as well, first response teams?

Mr Brown: Yes.

Mrs McLeod: All the volunteers.

Mr Brown: All the volunteer ambulance services are equipped as well, some first response teams have them now and more are getting them as they are prepared with their training and the community is ready to accept them.

Mrs McLeod: You would differentiate between volunteer services and first response teams if the first response team is a fire crew, for example.

Mr Brown: Volunteer ambulance services actually have an ambulance and transport a patient. The first response teams are community volunteer groups who are trained, but they would arrive at the scene and take care of the patient until an ambulance arrives, either a volunteer or paid service.

The Chair: Mr Kormos, 10 minutes.

Mr Peter Kormos (Niagara Centre): Thank you kindly. New Democrats obviously support the legislation and support the concept. I'm loath to make some of the observations that I make, because I don't want to generate sections or subsections to the legislation that make it more and more complex, that then give the government a rationale for saying, "Whoa, we'd just better back off and proceed more slowly." We heard from your data that 26% of fire departments and 1% of police departments carry AEDs in their emergency vehicles. That in itself is a shocking figure in that these are traditional and de facto first response teams and they don't even have this equipment. I think that's nuts. Again, this government, previous governments—entirely irresponsible for those teams not to have had access to that kind of equipment.

What I'm concerned about in your presentation is that there's a three-year time frame for implementation. That's pretty long in view of the fact that it seems it's not that complex a thing in the total scheme of things. I'm proposing a hierarchy in terms of how this develops, because it seems to me it should be within the first six months that every emergency response team has this equipment. So would you contemplate a hierarchy, that first you start with fire departments, full-time and volunteer, and police departments, and then you move on perhaps to provincially licensed workers like security guards? You mentioned the problem of a security guard with a radio transmitter. Why shouldn't the province require training in this particular technique for provincially licensed people like security guards? Wouldn't that be an appropriate thing to fit into a hierarchy that accommodates the time frame?

1000

Mr Bates: That's a rational approach to it. If one goes into the implementation phase, and I think a lot of discussion would have to take place before that, that is a rational approach. I only say that the fire departments are local municipal levels and, of course, you know the police departments can be municipal or provincial.

There is a buy-in in some municipalities for the service and others have not yet decided to do that. That's something that would have to be undertaken, and I think that's what you're referring to, as part of an implementation strategy.

Mr Kormos: OK. Obviously my debate isn't with you, but it's not a matter of buying in, friend; it's a matter of the province saying, "There will be this equipment in every police car and every fire department." To make that a reality the province has to accept responsibility for the funding of that, because these police and fire departments are under the gun in terms of the resources that they have to work with.

What about the need for regulations to dictate the particular models of equipment? As a number of manufacturers indicated, is it necessary for the legislation to somehow define what constitutes—it defines a defibrillator in the legislation.

Mr Bates: I think if we explain, and Mr Brown can, the standards we utilize with respect to ambulance

services—I think that's what you're referring to—we have very thorough standards for ambulance services and yet it allows some discretion at the local level.

Mr Brown: Health Canada is responsible for the licensing of medical devices, and these devices are part of that schedule licensed by Health Canada. They have very strict rules and specifications that have to be met. Any of the ones that are being brought into Canada for sale as a public access defibrillator, once they're licensed by Health Canada, are capable of meeting the requirements.

Mr Kormos: Mrs McLeod started talking—what happens if you give this shock to a person who doesn't fit within the frame of somebody who should be getting it? What are the risks?

Mr Vusich: The worst-case scenario is that you will actually stop the heart from beating. It may not go that far. It may simply harm the patient and may cause some electrical dysrhythmias of the heart, but the worst-case scenario is that you can stop the beating heart.

Mr Brown: The important thing here is the training. The box by itself does not provide the whole package. The person who's going to use it needs to understand a little bit about how they're going to use it and why, and rule out those instances when there might be a contraindication.

Mr Kormos: Precisely, and the research in their material to us referred to that Seattle grade 6 experiment where it showed the kids in grade 6 with a modest, but very short time frame, were darned close, in terms of their response, to a fully trained professional.

Has the ministry not been asked to prepare a structure for a training program? What I'm saying is, I appreciate these comments here, but it seems to me that the government's going to support the bill and it seems to me therefore that the minister would have asked the staff in the ministry to have prepared a much more cohesive program in anticipation of the bill. You expect the bill to be passed, don't you, Mr Colle?

Mr Colle: I hope so.

Mr Kormos: You see, what bothers me is that this is fine in and of itself, and I know you can say, "The bill hasn't passed yet, so it would be premature to do that." But it seems to me that hasn't stopped various ministries in the past over the last six years from anticipating the success of the bill.

I am just wondering why there isn't a more comprehensive plan for implementing this over the three-year plan, for creating that hierarchy and for funding it—because, of course, the ministry is anticipating paying for this equipment, isn't it?

Mr Bates: We can tell you, and as I mentioned previously, the ministry's policy is to do careful research, and there must be convincing studies done prior to this. Let me read to you some of it. You mentioned some of this research. If I could just read to you a couple of points here, one of which is with respect to the airline study that we referred to and which I think you've probably got. This is from the *New England Journal of Medicine*.

"Our study was not designed to provide proof that public access to defibrillation improves survival in the community, although it is our opinion that this benefit will be demonstrated in future trials. We await the results of the Public Access Defibrillation Trial, sponsored by the National Institutes of Health, which should provide insight into the efficacy of programs providing public access to defibrillation. Clearly, an organized infrastructure for the support of any defibrillator program is necessary to maximize the benefit of devices."

That study they're talking about is the one that I mentioned before that's ongoing at this point in time. I can also mention to you things like—this is from the study of a casino, again in the *New England Journal of Medicine*:

"These results have implications for the Public Access Defibrillation Study funded by the National Heart, Lung, and Blood Institute, a prospective, randomized study of rapid defibrillation by non-medical providers. Survival rates in study sites where collapse-to-defibrillation intervals are not consistently in the range of three to four minutes may not be much higher than those with the best traditional emergency-medical-services systems; still, the results from these sites may be an improvement over those of emergency-medical-services systems with prolonged response times. Casinos also have an unusually high density of cardiac arrest in their public areas, in comparison with other public places."

The announcement by the National Institutes of Health of their study says:

"Study Launched to Test Public Access Defibrillation

"Can community volunteers be as effectively trained as emergency medical personnel in the use of automatic external defibrillators, devices that shock a stopped heart back into beating?

"To answer this question," and it hasn't been answered yet, "the National Heart, Lung, and Blood Institute, in collaboration with the American Heart Association, has funded a large multi-centre study to test the life-saving potential and the cost-effectiveness of public access defibrillation."

Mr Kormos: Fair enough. In the total scheme of things, if I were to have a cardiac arrest, a nurse and a doctor would be ideal, and then I'd settle for somebody lesser trained. He's not here, but ultimately if push came to shove, I'd even want Mr Gilchrist to administer the thing—you know, if push came to shove.

Interjection.

Mr Kormos: As I say, if that's the final—no more options left. But we're still not talking about how the Ministry of Health is responding to this bill, anticipating its passage and then preparing for that three-year time frame. Maybe I'm just off in left field.

Mr Bates: I think first of all we're here to help with deliberations, and I don't think we here, as civil servants, are anticipating passage of a bill. I think you can appreciate that. As such, we're providing you the best information that we have available. You will hear, I say again, from the Heart and Stroke Foundation this afternoon, and we are participants with that particular foundation work-

ing on this. I think they will emphasize many of the same things that we said to you here today. I think you are the people who are charged with deliberating whether or not this is a good thing and whether this bill should pass. At that point in time, and at the point in time at which the research is there, definitive, that is the point in time at which we will start doing exactly what you have said.

Mr Kormos: Thank you kindly.

The Chair: I wish to go 10 minutes.

Mrs Molinari: Thank you very much for your presentation. It certainly helped me gain a better understanding of the actual apparatus that is referred to in the bill, how it's to be used, the safety, and certainly some risks that you've highlighted in your presentation.

One question: during the demonstration, I noted that after three shocks there is a period of time that the defibrillator gives for the person administering it to check for all of the vital signs once again, and then you demonstrated a fourth shock to the victim. What is the maximum number of times that can occur? Could it go for another three times, where this patient now has received six shocks?

1010

Mr Vusich: It depends on the protocol that is developed and on the machine and what it is actually programmed to do, and it varies. The American Heart Association has their recommendations and they've been adopted by the Heart and Stroke Foundation of Ontario. The protocol that Ontario paramedics have used for a number of years is that you deliver a maximum of three shocks consecutively, and if you delivered three consecutively, you must stop for a minute of CPR, and the most shocks that you deliver to a patient in a pre-hospital setting without a return of pulse is nine.

Some machines perhaps may be programmed to allow no more than nine shocks; other machines don't. They would in fact continue to allow the rescuer to deliver shocks as long as the patient was found to be in one of those two shockable rhythms.

Mrs Molinari: One of the things that comes to my mind when I'm listening to the presentation, the demonstration and thinking about the bill—and Mr Kormos talked about how he as a very last resort would even have Steve Gilchrist administer it—as I'm trying to put myself in a position that, were I to be in that type of need and someone had access to the defibrillator and were able to use it, my biggest concern would be, is it being used if I don't really need it? Now you're thinking, would I rather be there and wait for an ambulance or would I rather someone used it if they're not trained and I really need it? So my assurance would be that those who are going to be administering it have all the necessary qualifications to be able to administer it and not to have that type of risk. As you said, the machine can be fooled into thinking that there's no pulse. You've also indicated that those with CPR training are not trained to check for a pulse.

So the three main things, that they have to be unconscious, not breathing and not have a pulse, are things the person administering it would need to make sure are in

fact the case before even attempting to use the defibrillator. The training in individuals involved in that: I also appreciate the comments made of the necessity of the targeted responders and people in various places that would be specific to being able to use defibrillators.

But if it's in public access areas in shopping malls or wherever and available to anyone—I guess like the fire, what they'd have to do is break the glass to get the fire alarm going—what type of encasement, I guess, would there be to not have it that accessible where anyone could just feel, "Gee, it's available. Let me see if I can save this person"?

Mr Brown: The vast majority of programs we've looked at are what are referred to as targeted programs, and with a few exceptions the defibrillators themselves, the AEDs, are actually kept out of sight. Security guards, office staff, retail workers—they're kept in a position where the people who are trained to use them have ready access to them and can get to them quickly and get them to a victim quickly. The ones that are hanging on the walls, such as the example that was used earlier, the Chicago O'Hare airport, every one of those devices is alarmed. So if somebody pulls it off the wall, the alarms start to go off and trained responders from within the airport staff descend on the location of that alarm. Any one of the alarm sites or of the defibrillators in O'Hare airport is only about 30 seconds from a responder. In the areas where they have them hanging on the wall, it requires targeted responders to be close by to use them if somebody grabs them off the wall or to come and assist a trained responder who may know how to use one and takes it off the wall for its use. Generally speaking, most of them are out of sight of the general public but readily accessible.

Mrs Molinari: So any establishment, then, would have to ensure that a targeted responder would be on staff at any one given time. They'd have to have several people who would be called as targeted responders and as persons who would be able to use it, and it would be incumbent upon them to have someone on staff all the time to be able to respond to that.

Going to some of the costs associated with this, the expected lifespan of an AED is seven to 10 years regardless of use. I suppose that those used more would need to be replaced more often. Is that a fair assumption, that if it's one that's used on an ongoing basis, several times, then it would need to be replaced more frequently?

Mr Brown: The technology right now is so new that this is an estimate based on previous models of defibrillators. It would not appear at this point in time that numbers of usages would affect the actual device. It definitely will affect the battery, and the battery would have to be replaced after a certain number of usages. But as far as the device itself is concerned—and you may hear more from other presenters who will be presenting their own specific devices later today or tomorrow.

Mrs Molinari: That leads to my next question, then. Someone would need to ensure that all of this would take place, that if a battery needs to be replaced—especially if

it's something that is not used. So even though it's not used, it's there and you forget about it. But if it's used on an ongoing basis, there's more of an impetus to make sure it's working. But when it's not used for a designated period of time, then it would be incumbent upon the establishment that has one to make sure that someone is responsible for checking it on an ongoing basis. That would be a requirement as well.

The defibrillator pads, you indicated, are disposable after one use, but after two years regardless of use. So they're disposed of after one use, but after two years, regardless of use, then you would need to have the pads replaced. Correct?

Mr Brown: That's correct. The pads themselves have self-adhesive edges to allow them to stick to the patient's chest, and the adhesive dries out after approximately two years, and the conductivity or the ability of the shock to travel through the pad is reduced or negated. That's why the shelf life. They probably last beyond that, but to be absolutely sure, you don't want to have them go much beyond that.

Mrs Molinari: Do I still have a few more minutes?

The Chair: Half a minute.

Mrs Molinari: I was interested to hear your comments about the first response teams, the volunteer response teams that are available, other than St John's Ambulance. I've run a soccer tournament and we have hired or taken on the services of Priority One, I think that was the name of the response team, who are trained in emergency response. Would they also be people who would carry defibrillators and be able to administer the service needed to a victim?

Mr Brown: The organization you refer to is a private company that provides first aid response services to events and public places, and certainly within this program they would be able to carry a defibrillator such as this or something more sophisticated. Today that framework would normally happen with them being targeted responders with some kind of medical oversight or training from one of the recognized public access defibrillation training organizations that are out there. So they could do it.

Mrs Molinari: My concern would be that they could purchase a defibrillator but that they wouldn't necessarily have to be trained to use it, that they'd purchase it and have it. I'm trying to get into the whole thing that if you buy it, you have to be trained to use it, especially organizations like this one.

Mr Brown: Most of the organizations, in fact all the organizations we're aware of, that sell these devices also include an educational package with them. You'll be hearing more from some of these people today and tomorrow, and I expect them to be outlining what they're offering as part of the package that comes with the device. We would certainly expect that these devices should only be sold if there's some assurance of the training.

Mrs Molinari: That's what I'm saying, that it would be a requirement, the training, not just to offer the

possibility of training in the service but to make it a requirement in order to obtain one and actually be able to use one.

Mr Brown: One of the issues in the United States right now which is being considered in a number of states is the fact that with a doctor's prescription you can walk into a retail outlet and purchase one of these devices and there's no attachment to the training. This concerns us considerably.

The Chair: Thank you, Mr Brown. I think we've wrapped up, Mrs Molinari. I wish to thank the staff from the ministry on behalf of the committee. At this stage, our committee is in a position to receive delegations. Each delegation has a 20-minute time period.

1020

PHILIPS MEDICAL SYSTEMS

The Chair: Our first delegation is Philips Medical Systems. I would ask representatives from Philips Medical Systems if they wish to have a seat at the witness table. Good morning. I would ask you, if you wish, to give us your name and position, and then we'll launch into your time allocation.

Ms Yvette Dumont: My name is Yvette Dumont, and I'm with Philips Medical Systems.

Dr Noel Kerin: Good morning, Mr Chair. I'm Dr Noel Kerin. I'm an independent physician with no financial interests in any of the companies that sell these devices.

The Chair: Welcome. If you wish to proceed.

Ms Dumont: Good morning, everybody. As I stated, I'm Yvette Dumont. I sell medical equipment for Philips Medical Systems, a portion of which was recently acquired through Agilent Technologies. I'm here to make an offer to you that will be the best offer of my career, and it's an offer that you can't refuse. I'm not going to say a word about Philips products, if you promise not to tell my manager. Unfortunately, she is here today. But in all seriousness, none of us are here for our Philips sales pitch; we're here to talk about doing the right thing for the people of Ontario. So today I'd like to thank you for the opportunity to discuss saving lives.

I have brought along a brief video about early defibrillation; it captures the experiences of health professionals, cardiac patients and community leaders such as yourselves. We have edited it today to fit the time frame. Please note that it is an American video. It is our hope that someday we'll have a Canadian version to share with the people of Ontario. What you're about to see in here regards an opportunity we have to save Ontarians, and it speaks far more clearly than I could. I have also asked Dr Kerin to make a few comments after the video, and then we'll be glad to entertain questions.

Audio-visual presentation.

1030

The Chair: Thank you. If you wish to continue your presentation, we have until a quarter to 11. You may wish to entertain questions as well.

Dr Kerin: As a community physician for many years, I was at the other end of this tragedy as it played out in our communities in the Port Hope area. Having to walk out to tell a family that their father was needlessly dead is something that is painful beyond belief for everybody involved. So very early on in my thinking, I felt that the first link in the chain of survival and sudden death—which has nothing to do with cardiac patients; it can happen, as the video says, to anybody—is that you have an ability to do something at the time, and that simply means you have to shock the cardiac muscle. If you don't do that within five minutes, the survival rate drops off so dramatically that it's probably a waste of time. With the present system, five out of every 100 cardiac arrests survive—only five out of 100.

This technique is so simple that it could be taught to grade 6er. The New England Journal of Medicine has done a very detailed study of this and shows quite eloquently that grade 6ers can learn the technique. It actually trains you to go through resuscitation and defibrillation. It walks you through the system.

In my more recent experience at Ontario Power Generation, we instituted an early intervention system, a rescue system, and installed, I believe, about 72 defibrillators throughout the province. There were some skeptics at the time who felt this was probably overkill. Well, the overkill was put to rest very suddenly one afternoon as one of the senior engineers at the Bruce nuclear facility was walking out to go home. He didn't feel particularly well and was walking by the guardhouse and collapsed. They had an AED at the guardhouse, and he was resuscitated. That will be published in the journals—just absolutely lay people taking care of themselves. So this community of employees feels this is the right thing for them.

There are other stories I might tell you, but suffice it to say that I congratulate you on having taken on this issue. It's not particularly something that's going to win elections, but it's going to save lives.

The Chair: Thank you, Dr Kerin. Any further comments, Ms Dumont?

Ms Dumont: None at this time.

The Chair: I will now entertain questions or comments. We'll start with the Liberals. I think we have about two and a half minutes for each party.

Mr Colle: Just briefly, one interesting question that my colleague, MPP Molinari, asked is the fear of using these machines when the patient doesn't need them or could be harmed. How great is the incidence or what are the chances of doing this? In other words, I'm asking how smart is the machine and what are the chances that the use of this machine, the technology, the defibrillator, in good faith, could possibly harm the patient? If you've got any information or background, I think that is something that would be really helpful to the committee.

Ms Dumont: There's an ongoing collection of information, and there are minimum requirements for accuracy, through the American Heart Association, for these devices to pick up certain types of heart arrhythmia to be

able to shock, and not to shock rhythms that are not clinically required to be treated. Also, as a manufacturer, we've always encouraged our customers to share information. We publish data on out-of-hospital uses of our equipment, even with lay people, and we've shown 100% sensitivity and specificity. So we are able to completely recognize rhythms that require shocking and those that don't require shocking, which could even be someone who has a pulse.

The new CPR guidelines for non-medically-trained people state that if you have a defibrillator on site, and you establish that someone is unconscious, not breathing and there are no signs of life, they're actually recommending that you not worry about checking for a pulse. If you know there's a defibrillator on the scene, the goal is to apply the defibrillator and let the defibrillator make the decision whether to shock or not shock.

Mr Colle: So in many ways the machine might even help in terms of delivering that first aid, because it's sort of an on-hand technical aid to that first responder.

Ms Dumont: The feedback we've received from non-traditional responders is that it's like a coach. On the scientific side, it's like there are three cardiologists in there making those decisions for the layperson. They need to know to put it on the victim and turn it on.

Mr Colle: That's very helpful.

Mrs McLeod: How crucial have you found the CPR piece to be? I'd be interested in how much training—can I refer to it as Hydro? Did you say OPG or Hydro? I'm trying to place the timing when you installed those. Did you train the employees? When you said lay people were using it, were they actually lay people who had some training, either in the use of the defibrillator or in CPR or both? I guess I'm trying to make the linkage: if the defibrillator is pretty easy for anybody to pick up and use, and the CPR piece is critical, are people at least being trained in the CPR that goes with it?

1040

Dr Kerin: The training for the defibrillators is actually quite simple. They have shown that as low as grade 3s can activate the system and work it successfully. But grade 6ers can respond and achieve the targets and time in the same range as advanced, trained paramedics. So the training is very simple for the AEDs and, of course, anywhere you have them, you do expect there's a certain level of competency. But basically, it's opening the machine and putting two pads on the chest, and it walks you through a crisis. Of course, in a crisis you're going to freeze, so it actually prompts you to do the steps in a very simple fashion.

Mrs McLeod: As we heard the machine, it said, "Administer CPR." If you weren't trained in CPR, how crucial is that in terms of that missing piece?

Ms Dumont: Can I respond to that? There is a requirement that people have CPR training before they go on to be trained in using a defibrillator. Part of that is that the CPR course also encompasses signs and symptoms of a heart attack, which is only one portion of the population that could succumb to sudden cardiac arrest. So if some-

one is ignoring chest pain and treating it as indigestion, they are at risk of sudden cardiac death, but that's only about one twentieth of the population.

The CPR foundation is to help institute accessing 911, knowing to call for help, anticipating there's a need to respond, and also how to approach somebody to establish if they're unconscious and not breathing—those are under the indications for use of a defibrillator. So that's why there is that requirement.

The Chair: I'll go to Mr Kormos.

Mr Kormos: I just want to make sure: is the state of fibrillation and cardiac arrest what we generically call heart attacks?

Dr Kerin: No. It's cardiac arrest. A heart attack is only one cause of cardiac arrest. As the lady in the video demonstrated, she was 33 years old and just dropped dead. The kid on the baseball diamond hit in the chest by a baseball could actually go into ventricular fibrillation. So heart disease is only one cause of sudden death.

Mr Kormos: OK, a heart attack is included but is only one segment of the whole broad class.

Dr Kerin: Yes.

Mr Kormos: OK, that's important for me.

I was surprised and shocked to learn earlier today that only 26% of fire departments and only 1% of police departments have this type of equipment in their emergency response vehicles. My goodness, here we are talking about putting these in public places for the public to access and our emergency response teams don't even have them yet. Haven't you been visiting those jurisdictions and those communities with this video tape? What's going on?

Ms Dumont: I have. I try to do my sales job very well, I really do.

Mr Kormos: I have no quarrel with that.

Ms Dumont: This video is very new—that's one thing—but part of it is that the fire departments that do not have defibrillators are mostly volunteer and rural services. So there's an issue of fundraising. There's also an issue of who is going to manage the program and take charge of it. Thirdly, in a rural situation, how beneficial is it to call in your volunteer service, who leave their homes, go to the fire station and then bring the defibrillator? There's a big lag time. In those situations, perhaps it would be more applicable to go with having them in the community centre, having more community people take charge of the program or even their police service. Police are seriously looking at this as an extension of serving and protecting. It's a matter of time and education and putting in the resources to maintain the officers with the equipment and tools.

Mr Kormos: So a good first step would be to make sure these police departments have the resources to purchase this equipment and invest in the training. If we were serious, we'd make sure that happened first, wouldn't we?

Ms Dumont: You will see that in community programs it's all-encompassing. They'll include the local police, the municipal centres and the public places all in

one. It's like a moving target. Where can we predict where the next sudden cardiac arrest will occur? If we can cover off where we work and where we play, we can really make a difference. As you can see from some of those statistics, some of the cities that were cited had small populations.

Mr Kormos: I come from a small—from Welland, which is a wonderful community but it's not Toronto.

Ms Dumont: That's right.

The Chair: Ms Molinari?

Mrs Molinari: In your presentation you ended with the comment that this is going to save lives, and I think it's safe to say that I can speak for everyone in this room that any legislation that would do that would be supported by all of us if it were only that simple. We've heard a presentation from the Ministry of Health this morning, and I'm anxious to hear the rest of the presentations throughout today and tomorrow to see some of the similarities.

One of the things I learned through reading the material was that there are three important things before a defibrillator is used: that the patient is unconscious, not breathing and has no pulse. Yet you have indicated it's not necessary to check for a pulse, that the machine will actually do that for you. I'd like you to comment a little more on that. My biggest concerns are the risks in using it when a patient doesn't need it and that it could actually cause the heart to stop.

Dr Kerin: I think a very fair comment is that trying to make a decision about whether or not to intervene with an unconscious patient is always a dramatic event. Finding a pulse is difficult even for qualified personnel, so they're tending to drop that requirement in the new guidelines. If a person is unconscious and not breathing, you apply the pads, and it will walk you through the steps you're required to do to resuscitate that person. It actually is a coach for CPR.

I think Mrs McLeod spoke to this earlier on when she asked, "What value is CPR in the whole chain of events here?" It actually is small. The only thing that's useful in a critical condition where your heart has stopped beating is a defibrillator. Nothing else works. CPR actually just extends the time to death by a couple of minutes. If you don't get to shock within five minutes, the person is effectively dead. This is why we say that only five out of 100 survive, and it's a totally unacceptable death rate from a very preventable incident.

Ms Dumont: I guess your concern is if you were to put it on someone who had a pulse. Then the unit would advise of no shock. It would say, "Check airway; check breathing; begin CPR." So the worst-case scenario is that you might end up doing CPR on someone who maybe doesn't appreciate the fact you're doing CPR, because they have a pulse but it may be a very weak pulse and they're going to end up having cardiac arrest. The goal is to give people tools so they will intervene and feel confident.

The Chair: That wraps up our time.

Mrs Molinari: Just one last question; I think it's important. There isn't any danger in administering CPR, but there is a danger in using a defibrillator when you can't use it. That's what I—

Dr Kerin: The defibrillator will not discharge until it recognizes the death rhythm, which is ventricular tachycardia or fibrillation.

Mrs Molinari: And it can't be fooled?

Dr Kerin: It can't. The data to date is 100% accuracy in interpreting and responding.

The Chair: Thank you very much for that presentation, Dr Kerin and Ms Dumont.

1050

LAERDAL MEDICAL CANADA

The Chair: The next presenter on our agenda is Laerdal Medical Canada. Would the presenter approach the witness table and introduce yourself.

Mr Larry Beyak: My name is Larry Beyak. I'm with Laerdal Medical Canada. My presentation today is more a reading presentation. There is no video and there are no action shots, so I ask you to bear with me.

Honourable members, I'd like to thank you for the opportunity to speak on Bill 51, the Portable Heart Defibrillator Act. I'm here today not only to represent Laerdal Medical Canada but as well to fulfill my obligation as a citizen in the honourable Tony Clement's riding.

For the past 12 years I have worked for Laerdal Medical Canada. Laerdal is an internationally recognized and respected member of the medical community. Laerdal introduced the world to cardiopulmonary resuscitation, or CPR, through the medical community with the introduction of the Resusci-Anne CPR manikin in 1960. Laerdal specializes in the manufacture and distribution of resuscitation products. These products are used primarily in emergency, life-threatening situations. These devices include portable defibrillators, which Bill 51 is intended for.

I am a 39-year-old, college-educated professional who began my health-care-based career in 1983 as a paramedic in Toronto. Over the next eight years, I would tend to patients in immediate need of help. In 1986, I was one of the initial paramedics in Ontario allowed to perform defibrillation therapies on patients in cardiac arrest.

It is with great honour that I speak before this committee. Today I could speak to you as a businessman interested in opening markets. I could speak to you as a scientist providing statistical information for or against the implementation of portable defibrillators. Instead, I have chosen to allow my words to reflect as a citizen, appreciative of the work of agencies such as the Heart and Stroke Foundation of Canada which provide us guidance through the volumes of research and international briefings they attend. I speak for the emergency care providers who strive to retrieve life so quickly extinguished, knowing that intervention would have helped. I hope to speak for those families who have lost

loved ones suddenly, without the benefit of saying goodbye one last time.

Today, you will hear about the chain of survival, the important eight minutes, new technologies and enough statistical information to bring the Stanley Cup back to Toronto on its own. I would like to take 10 to 20 minutes of your time, though, for the humanity side of this debate. I will draw on my 20 years of clinical and business experience in emergency medical care to discuss with you the virtues of Bill 51, the Portable Heart Defibrillator Act.

In the fall of 2000, Mr Michael Colle contacted me. Mr Colle expressed an interest in public-access defibrillation and portable defibrillators and asked me to meet with him to consult on these issues. Soon a small working group was struck. Soon afterward, legislation was developed and this group was again convened to review the legislation. I must admit that there was some initial skepticism when I was first consulted, but I am a firm believer in the commitment and dedication Mr Colle has exemplified in carrying this bill forward.

Currently, Ontario's health care system is under critical review, with an emphasis on hospital care. One major area is being overlooked in this review. This is the science of pre-hospital care medicine prior to hospital arrival, which is the traditional patient entrance into the Ontario health care system.

What is clearly not understood is the impact that emergency response and field treatment of patients has made in decreasing dynamically patient mortality and morbidity. Since the 1980s, a critical emphasis has been taken in the training of emergency medical personnel. Traditionally, these have been fire and ambulance personnel. This has resulted in a decrease in patient admissions, and outcomes have dramatically improved, except in one area: sudden cardiac arrest. The main reason for this is that in many cases traditional response groups, fire and ambulance personnel, are unable to reach sudden cardiac arrest victims with sufficient time to resuscitate.

The implementation of defibrillators in 1996 to all Ontario ambulances and the acquisition of defibrillators by some Ontario fire departments has seen patient survival rates increase from 2% to roughly 10%. While you may consider a fivefold increase in survival extremely impressive, consider that nine out of 10 patients will not go home, consider that nine out of 10 will not go back to work or organized activities and consider that nine out of 10 will not pay taxes.

Can this be changed? That is one of the questions I will attempt to answer. As you may be aware, a few years ago defibrillators were implemented in Casino Windsor. The security staff teamed with the medical staff to coordinate a deployment plan under the medical auspices of Dr Curtis Fedourk. Their deployments were so successful that eight of their first nine responses saved patients. Their immediate response with a defibrillator is the only reason that these people survived. Recent statistics show that this casino alone has a survival rate of 65% to 70%. In 1999, the Bruce nuclear generating station in Tiverton,

Ontario, implemented defibrillators on-site. Their location is roughly 20 minutes away from the response of fire or ambulance personnel. In early 2001 they used their defibrillator on a member of Atomic Energy Canada, who was vital signs absent, successfully. This patient survived after being defibrillated and regained consciousness soon after arrival at the hospital. The Bruce nuclear station enjoys a 50% survival rate.

In 2000, updated international guidelines for cardiopulmonary resuscitation and emergency medical care were brought forward. These guidelines are updated every four years. In 2000, it was stated, and I quote from this textbook, which is the updated guidelines textbook internationally, "The relative value of early defibrillation in reducing the interval between adult sudden cardiac arrest and first defibrillatory shock by one to two minutes does more to improve the probability of survival for an individual patient than all the medications, airway interventions and newly designed defibrillator waveforms combined."

In answer to my above question, yes, with wider implementation of defibrillators many more lives can be saved. This is an internationally viewed opinion.

Another question you may ask is if this legislation may improve the overall long-term health of sudden cardiac arrest victims. The short answer is yes. Study after study has proven not only that quick response with a defibrillator will save the victim's life, but also that the promptness with which this treatment is initiated will affect the overall health outcome of the patient in the long term. All survivors return to the same lifestyle they enjoyed before this event. That is the definition of a save.

Advancements in technology, the co-operation of the Canadian and provincial colleges of physicians and surgeons, dedicated efforts of agencies such as the Heart and Stroke Foundation of Canada and the American Heart Association, professional medical responders and co-operation between manufacturers have allowed for the research and development of current easy-to-use defibrillators. The promptness which government agencies such as the Food and Drug Administration and Health Canada have accorded these devices has allowed for wider implementation since 1992.

It is my professional opinion that the legislation as laid out in Bill 51 will only enhance efforts of the above-said groups while concurrently highly impacting citizens suffering cardiac arrest. These survivors will go back to their previous level of activity and in the long term will maintain or improve their long-term health.

I would like now to address what I believe is a common misunderstanding. Sudden cardiac arrest and heart attacks are not the same medical event or etiology. Although patients suffering from myocardial infarction or heart attacks may enter into a cardiac arrest, sudden cardiac arrest victims are seldom succumbing to heart attacks. Heart attack events are accompanied by secondary underlying disease processes. Sudden cardiac arrest in many cases may have no underlying coronary disease. Sudden cardiac arrest is experienced at any age, under

any circumstance, in otherwise healthy individuals. The common denominator to the survivability of a patient is the use of a defibrillator; that is, the life-threatening heart activity that 80% of sudden cardiac arrest patients are victims of is only reversible with the use of a defibrillator. The only treatment is defibrillation.

The use of a defibrillator is so vital that in 1992 the American Heart Association published a statement recommending all first responders be equipped with a defibrillator. In 2000, defibrillation is elevated as the pre-eminent therapeutic intervention. I quote: "The use of defibrillation now transcends both advanced cardiac life support and basic cardiac life support." To also quote, "Remove barriers. Constructive efforts to remove state and local administrative regulatory barriers to the use of AEDs by lay responders are strongly encouraged."

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It is our, as well as your, job to remove barriers that negatively affect our cities and communities. It is the small steps we take that will result in allowing humanity to continue to create through technology and science. We are now at a place where science and technology will allow us to understand and appreciate what we have accomplished.

It is never easy to address the financial impact of such a program. While this bill will not generate global funds, should that automatically mean the demise of such legislation? The program will cost the taxpayers of Ontario. You can raise figures of between \$3,000 and \$5,000 per device. Cost breakdowns per life saved can be and have been calculated. As a taxpayer, I feel that this is a short-term financial risk. I conclude this for a few reasons that I will share with you.

The most outstanding is that public access defibrillation is becoming an expectation or is becoming a standard of care. International consensus on the importance of early defibrillation treatment, market manoeuvring by large corporate manufacturers, local emphasis and corporate-initiated defibrillation programs will make this a priority standard in the near future. This could leave provinces and municipalities liable.

The copious amounts of research and the educated public point directly to the need for this intervention over traditional CPR. Our current health care system will demand the need for practical interventions in place of more skilled practitioners that are disappearing from our system for various reasons, including retirement.

Finally, pre-hospital intervention simply saves lives and costs society much less than acute and long-term care and rehabilitation of people.

It is doubtful that this concept will go away. We are all aware of the dramatic impact on safety and life that programs such as fire prevention have had on our communities. That program, like this, is not designed to generate funds but has saved countless lives and millions, if not billions, of dollars simply by making citizens aware and educated. I feel that the Portable Heart Defibrillator Act will have the same impact in time.

The next obstacle could be implementation of such a program. I believe I have the answer for that already. It is in fact somewhat written into the body of this act. Emergency officials are trained, educated professionals with unique ties to their city and community. Together they have formed alliances with physicians, professional agencies, political authorities and community organizations. These alliances will help provide funding, training, ongoing medical authority and all other roles and responsibilities required in promoting, implementing and maintaining defibrillation programs. Ontario ministry officials in the Solicitor General and emergency health services branches have the ability to develop and control both mainstream and training programs locally. Therefore, we have the box ready to go; what we need are the parts to make the vehicle run.

So where does that leave us? Have I touched on all issues? On the contrary, I've only scratched the surface of this debate. However, I have been able to carry your attention for this period of time. This is significant. Why is that? Please hold your breath and think for a minute. In the time I've taken, any one of us could have experienced a cardiac arrest. Think to yourself in this span of time all of the events that would have to take place in downtown Toronto, at Queen's Park, that would initiate a prompt, four- to five-minute emergency response to get to your side with a defibrillator to resuscitate you. Think of the time that could be saved if somebody simply ran to the corridor, grabbed the defibrillator and resuscitated you, then put into place the chain of events required to get you a proper response. That is what this bill is all about. It could happen to you, and nobody is prepared. I ask that you consider how this legislation will affect you, those you sit beside and, all importantly, those you represent. Thank you for your time.

The Chair: Thank you, Mr Beyak. We have about a minute and a half for each party.

Mr Colle: Thank you, Larry, for your help and kind words. I guess the thing is that we are lay people here and we represent a lot of people in Ontario who don't have the technical expertise.

Just to re-emphasize again, if a person has cardiac arrest, essentially the only way you can save that person is with defibrillation.

Mr Beyak: Yes.

Mr Colle: We're talking basically about a very definite differential between that and heart attacks, right?

Mr Beyak: We're talking about a very set set of circumstances in which the only care is defibrillation.

Mr Colle: Right, and if the other set of circumstances are the ones that are apparent in the patient, the machine will not activate.

Mr Beyak: If the machine is deployed properly, the machine will not activate, correct.

Mr Colle: So that's the difference, I think. We lay people have to try to understand this is about cardiac arrest, and it's a particular—

Mr Beyak: I think the easiest way to differentiate is that the person you are dealing with is cold and your idea

is to make them either colder or warmer. If they're not cold, then you shouldn't be applying the device.

Mr Kormos: Laerdal is the manufacturer of this equipment?

Mr Beyak: Yes.

Mr Kormos: How many manufacturers are there in Ontario, Canada?

Mr Beyak: There are roughly three manufacturers.

Mr Kormos: Then there are other sources beyond Canada?

Mr Beyak: No, there are no manufacturers in Canada.

Mr Kormos: But you said you were a manufacturer.

Mr Beyak: My company is a manufacturer. We're a Norwegian company. All corporately based manufacturers build outside of Canada.

Mr Kormos: I'm still confused. You heard my shock and dismay at only 1% of police departments and 26% of fire departments having these, and then somebody a little while ago said, "No, in the total scheme of things...." They left the impression that you're better off putting them into the community rather than in the hands of the emergency response teams. My advice so far—I'm about to change my mind maybe—is that I want these guys, for instance, fully stocked before we start moving along. Where do you stand on that sort of tension between those two positions?

Mr Beyak: It's not really a tension of two positions. The concept is that time is of the essence, period, and whoever gets there with whatever device—and I'm sure that my paramedic friends would agree that whoever gets there with a defibrillator, we're not going to stand there and argue about who does it; just do it. That's the concept: do it and get this thing going, save this patient's life so that these gentlemen can come in and carry on, because if we wait, then these gentlemen will have nothing to do. I've seen it time and time.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): You mentioned that if the machine is deployed properly the machine will not activate. Is that correct?

Mr Beyak: If it's deployed properly, yes.

Mr Beaubien: The bill, under "Defibrillators to be installed and made available," says in section 2, "Portable defibrillators shall be installed in a readily accessible and highly visible place in the following locations...." If I go to paragraph 3 it says, "Privately owned buildings to which the public has general access." That means anybody, trained or untrained, probably could use the equipment.

Mr Beyak: I have to interject there. We do have medical guidelines and we have international and national guidelines that stipulate that people must be trained before these devices are initiated into the public. That has to be understood. It's not a matter of a company going out to an apartment building and dropping off a defibrillator and saying, "Good luck." You will hear over the next two days that there is the framework in place for training agencies on a national and provincial basis that will make sure that people are trained and that they do have medical authority to implement that.

Mr Beaubien: I'm glad that you've clarified that, but that's not what the bill says. The bill says, "Privately owned buildings to which the public has general access." It doesn't mention trained people or qualified people; it just mentions where these—

Mr Beyak: Defibrillation is still a medically delegated act in the province of Ontario. For somebody to walk around with a defibrillator is against the law. In an emergency situation, if a defibrillator is available it becomes a first-aid act and it can be deployed. An emergency situation would be a life-threatening situation.

The Chair: I'll have to wrap it up here. Mr Beyak, I want to thank you for your presentation.

1110

CITY OF TORONTO EMERGENCY MEDICAL SERVICES

The Chair: Our next order of business is the City of Toronto Emergency Medical Services. Gentlemen, I ask you to approach the witness table, have a seat and identify yourselves for our committee. We have 20 minutes, including questions. As far as questions and the next rotation, I'll start with the NDP.

Mr Kormos: On a point of order, Chair: Perhaps the Minister of Labour, Mr Stockwell, could be forewarned that there's a paramedic in the building.

Mr Ron Kelusky: My name is Ron Kelusky. I'm the general manager of the City of Toronto Emergency Medical Services. To my right is Mr Garrie Wright, a supervisor with our organization who is responsible for coordinating our public access defibrillation program. So if there are any technical questions beyond my presentation, I'm sure Garrie would be happy to address them.

I appreciate the opportunity to come and speak to you regarding Bill 51. I just want to give you a little history regarding the Cardiac Safe City program within the city of Toronto. On October 2, 1998, Mayor Mel Lastman and city council declared Toronto a cardiac safe city. This declaration meant that the mayor and city council endorsed the concept of Toronto becoming a cardiac safe city and directed its emergency medical services department, Toronto EMS, to actively encourage public involvement in cardiopulmonary resuscitation and public access defibrillation. As well, Toronto EMS was also directed by council to establish a series of pilot programs within the city that would provide a framework for future expansion of this program on all city sites.

Toronto EMS partnered with Sunnybrook and Women's College base hospital, which is our medical oversight program, as well as the private sector to promote public access defibrillation in the community and to establish the public access programs within the city.

Over the past two years we have undertaken a series of pilot projects where we have trained and certified and recertified a number of lay providers, namely, security personnel in the former city halls within the now new city of Toronto. In addition, we have expanded that to incorporate officers within the marine unit program, the

Toronto Zoo and at police headquarters. The principle behind that is to provide some leadership within the community through the establishment of public access defibrillation and to endorse the participation of the private sector to become involved in this program.

In Toronto, Toronto EMS encountered approximately 2,000 cardiac arrests in 1999. Of these cardiac arrests, 16.9%, or 344, occurred in a public place. Pearson International Airport accounted for 24 of these cardiac arrests and was the most common public location where cardiac arrests occurred. In fact, the studies that have been conducted in North America had identified that the top three sites where cardiac arrest occurs are airports, jails or holding cells and shopping malls. What is interesting to note is that in our encounters with cardiac arrest within our community, the average age is 69 years old. While this particular cohort of the population represents about 12%, we know just through demographics that this is going to increase to over 20% over the next few years, and based on their health and simple age, the incidence of sudden onset cardiac arrest will increase.

According to our studies and the studies conducted by Sunnybrook and Women's College, from the time that a citizen calls 911 until the first emergency crew capable of defibrillation arrives on scene is 8.1 minutes, and that's from the time you pick up the phone to 911 to curbside.

In a study that was conducted in the city of Toronto, in cases where the patient was located in a building above the first floor, defibrillation was delayed on average two to three minutes. We know from technical studies in terms of survivability and outcome that once you reach eight to 10 minutes, the chances of survival have declined so significantly that in all likelihood the patient will not survive.

On average, 25% of the responding 911 crew's time is spent getting from the curb to the patient. For example, in large urban centres with multi-storey buildings, the time frame to defibrillation becomes very significant if you're accessing, say, the 72nd floor of the Scotia Tower. That's why advocating a controlled form of defibrillation within large buildings where there are a number of people can reduce the time to defibrillation.

It is not surprising to see that in Toronto, by the time a defibrillator is applied to the patient, only 27% are still found in ventricular fibrillation. Fibrillation is the first rhythm seen in 80% to 90% of sudden onset cardiac arrest and quickly deteriorates to a non-shockable rhythm within minutes. Shopping malls, office buildings, major transportation and terminal areas are a real challenge for 911 crews due to the distance the patient may be from the front door.

I think another factor that comes into account in terms of calculating delay is that when a cardiac arrest occurs, there is a period of time delay that's encountered while people recognize that there is a problem, sort out who's going to call 911 and then make the call.

The survival rate from out-of-hospital cardiac arrests in Toronto is less than 5%. In fact, in most major urban

centres, cardiac arrest survival is significantly compromised. A study that was conducted in Chicago about five or six years ago was titled *Where are the Survivors?*, because there were virtually no survivors within that city due to accessibility problems.

In Toronto, our most successful program is found at Woodbine Racetrack casino. They established a PAD program in April 2000 and have had four sudden-onset cardiac arrests. To date, three patients have survived to discharge, and in each case security personnel delivered the shock in less than two minutes. While this isn't a conclusive study, there are other studies that have been conducted in Las Vegas and other large casino areas where they have experienced 50% survival rates as a result of having AEDs.

Communities across Canada and in Ontario are pursuing public access defibrillation with some vigour. Ottawa reports having over 340 AEDs planned for their community, Mississauga over 70, and in Toronto, where the population is over 2.5 million, we probably have only 50. Other cities across North America have adopted the principle of cardiac safe cities and feel confident that this is the way to go in terms of public acceptance. The Toronto Convention and Visitors Association now tends to receive calls from people wishing to book conventions to determine whether or not it is in fact a cardiac safe city and whether there are defibrillators available. So the significance of this program south of the border seems to be spilling over.

There is the issue of trying to manage a program so it does not become ad hoc. I think part of support of a form of legislation that supports public access defibrillation ensures that there is a level of control within the system. I believe that is important.

The other thing that needs to be looked at in terms of a public access or AED program is some of the province-wide issues we have in terms of delivering an adequate level of emergency medical response within our communities, specifically in rural and remote areas and suburban areas of the cities of Ontario where accessibility to trained personnel is not always available on a timely basis.

The opportunity to provide defibrillation in a controlled manner in those areas where there appears to be a higher incidence of sudden-onset cardiac arrest can somewhat relieve the expectation that EMS or fire or combined 911 systems are the only safety net available to the public. There have been some studies that have shown that in weddings, for example, there is an equally high incidence of cardiac arrest. Again, the time delays in contacting 911 and the time delays associated with accessing the patient where there are a number of people around can usually result in a less than adequate level of survival.

1120

One of the things we have to ensure in this process is that there is a level of confidence in the system. I've been in this business for about 26 years, and I recall the same debate occurring over CPR. There were concerns ex-

pressed by the public that if we allowed lay people to become involved in this program, it was only going to create mayhem, liability issues and broken sternums, but that really didn't happen. It has now become a normal part of life to encourage even our children to become trained in CPR.

The debate carried on a few years later when we were talking about the evolution of advanced care within this province. Where other sectors of North America had successfully implemented advanced care or full advanced life-support paramedic programs, there continued to be concerns as to whether ambulance personnel could be trained to that level. Today we have seen evolution reach a point where we have critical care paramedics who in fact provide a significant level of intervention beyond what we would have thought only a decade ago.

We support Bill 51's three initiatives regarding public access to fibrillation, the first being that AEDs be installed in an accessible and highly visible fashion in appropriate publicly owned facilities and encouraged in privately owned buildings where the public has general access. As advocates of PAD, we have visited a number of businesses in Toronto, namely the LCBO, Royal York, correctional services, various fitness facilities and the airport authority. Private businesses are aware there is no obligation to install AEDs at their places of business; therefore there is very little incentive to initiate such a program. The concept of how this device will save lives is very easily understood and accepted by the private sector businesses we have visited. However, they are reluctant to initiate the program due to liability and cost concerns. It is our belief that if support for this program and this initiative is increased, then the cost will subside and the \$4,000 to \$5,000 for the device will be reduced significantly.

Where these programs have been established, many of the proprietors chose to hide the device because they believed the device would upset staff or visitors. In many cases, if there has been a collapse, bystanders wouldn't be aware the defibrillator exists and the internal emergency response system wouldn't be activated. AEDs must be placed so that they are no more than three minutes from the patient's side at any time. AEDs placed three minutes apart will result in the first shock delivered in less than four minutes. Our current research indicates that a shock in four minutes will result in optimum results. At O'Hare International Airport, I believe there is a defibrillator placed every 100 metres within that airport and that they have been used on numerous occasions.

We also support standardized guidelines in the training, use and maintenance of AEDs. Currently in Ontario, these guidelines and standards do not exist. Therefore, the fear of an ad hoc evolution of this program may evolve, and that's something we want to avoid.

We support the American Heart Association, the Heart and Stroke Foundation of Ontario and the recommendations of the Provincial Base Hospital Advisory Group regarding public access to fibrillation: having a medical director, ensuring that AED provider training meets

acceptable guidelines and that provider training and evaluation consist of a minimum of seven hours. The program content should include early CPR, indications for application of AED, recognition, and maintenance and documentation.

Within the city of Toronto, the computer-aided dispatch system we utilize has the capability of recording all the locations of automatic defibrillators that are placed within the city. In addition, it has the ability to prompt the dispatcher to identify, when a call comes in through 911, that there is an AED available within that facility. It provides the mechanism, if it was not otherwise used when the call was initially made, to notify those people that a cardiac arrest has occurred within their facility. This establishes a clear link to ensure that, regardless of the situation, we're able to identify that a PAD is available. In addition, through the training provided to emergency medical dispatchers, there is an opportunity to assist the bystander or layperson in initiating any procedures that may be required in the use of the AED.

The third point is protection from liability for the rescuer and the person who owns and operates the premises where the AED has been installed. Liability protection is the number one concern to the user as well as the owner of the facility. There have been studies carried out worldwide regarding why people do not become involved. Inherently there is a concern by a certain percentage of the population, not because they want to, but they simply avoid getting involved in these types of situations. For the percentage of people concerned regarding liability or fear, I think this legislation can alleviate that concern.

Those we have spoken to want written assurances from the government that both the user and the owner are protected from prosecution. Bill 20, the Good Samaritan Act, which was recently passed by this government, does not go far enough to specifically state that the user and owner will be protected from liability issues. Bill 51 does address this issue. Just anecdotally, stories have been told of people who have collapsed in recreational facilities in the United States where automatic external defibrillation was not available, and those have in fact been subject to lawsuits for not providing the optimum level of care that could be provided in that circumstance.

Evidence is available to show that early defibrillation in sudden onset cardiac arrest does save lives. As the person responsible for delivering emergency medical services in Toronto, I cannot always guarantee we will be there in an optimum time frame. To address some of the concerns regarding who should be responsible and how you delineate levels of responsibility when perhaps fire or ambulance, paramedics and a layperson arrive on the scene simultaneously—these are not real issues, and there can be protocols that address these issues. But clearly what we do need is to have these devices available just in case.

To reiterate what the previous speaker indicated, there has been a lot of success through fire-prevention programs, through legislation that has seen the placement of

such things as smoke alarms, fire extinguishers, etc within public buildings. I think it would be ideal to come to a point within this province to take the leadership role and be able to show that defibrillators are an important part of our health and life safety within our communities.

The Chair: Mr Kelusky, we've wrapped up our time. I wish to thank you and Mr Wright for that presentation.

1130

CARDIACSAFE.CITY.COM

The Chair: I will now call on our next delegation, CardiacSafeCity.com. Good morning, sir. If you could identify yourself, please. We have 10 minutes for a presentation by an individual.

Mr Tony Battaglia: Mr Chair and members of the justice and social policy committee, I'm pleased to be here today to share with you how CardiacSafeCity.com and the Aldus Worldwide Company Ltd Web site are supporting cardiopulmonary resuscitation and automated external defibrillation for community access defibrillation programs.

ER-CPR is public access defibrillation awareness, prompting and refresher training software for Windows and Palm computers. It essentially integrates CPR skills on desktop computers for people in the workplace, for the lay public who have never seen these devices before, yet need to know how important they are and how much they can save a life.

My name is Tony Battaglia. I am the president of Aldus Worldwide Company Ltd, a Workplace Safety and Insurance Board first aid delivery organization. I'm the inventor of this Canadian software and coordinator of the ER-CPR mass-training event. This event is chaired by Jack Layton. The goal of the event is to donate ER-CPR software to every municipal workplace computer in Canada. Our target is to reach 1.3 million Canadian municipal employees, of which 365,000 are Ontarians.

Clearly our goal is to inform the lay public as to how easy CPR is and how easily it can be integrated with automated external defibrillators. As the previous speaker eloquently pointed out, they are very successful when implemented correctly through an organized and efficient system. I'd like to talk about how ER-CPR can be part of that.

Sudden cardiac arrest victims require access to critical links in the chain of survival: early access to 911, early CPR, early defibrillation and advanced life support. I will concentrate the balance of my comments on the value of implementing an effective awareness program which is designed to enhance the understanding and demonstrate the integration of CPR and AEDs in the workplace and in saving the public.

In the United States, the 106th Congress found, "Increasing public awareness regarding automated external defibrillator devices and encouraging their use in federal buildings will greatly facilitate their adoption." Clearly what they have understood through these types of hearings and through educational programs, as you are

finding out, is that there is great value in public access defibrillators. I'll also note that the 106th Congress suggested a community partnership as a foundation for implementing PAD programs, and they define it as "composed of local emergency response entities, such as community training facilities, local emergency responders, fire and rescue departments, police, community hospitals, local non-profit entities and for-profit entities concerned about cardiac arrest survival rates."

I've cited the appropriate legislation in my handout.

The science and value of CPR and AED awareness, prompting and refresher software is recognized by the president of the Federation of Canadian Municipalities and the Toronto Paramedic Association, and has been captured in American Heart Association publications. I'd like to refer to this statement: "Rescuers who used electronic CPR prompting, at the time of testing, were 2.5 times more likely to perform all of the assessment and performance skills and 4.5 times more likely to adhere to the performance guidelines," than those who relied on memory alone.

The reason I'm mentioning that is that in the past, CPR retention and the use of CPR—people have taken the course and forgotten how to do the skills. Clearly with AEDs, they are prompting. They talk people right through the rescue, right from the get-go. They are highly sophisticated in establishing pulselessness and then deliver the definitive care that they need.

ER-CPR is the most cost-efficient CPR and AED self-paced awareness/prompting/refresher software available. The goal of integrating education to the public again is to make it cost-efficient. Clearly, through software training we have utilities in every workplace so that people can understand the value of the life-saving equipment in their facilities, and our goal is to train them on what to do before the EMS and the public access defibrillators get there.

CPR enhances emergency cardiac care and AED responses and immediately increases the number of people learning and responding to sudden cardiac arrest emergencies. Recently the standards have changed for how CPR is performed; in September 2000 the guidelines changed. Our goal is to immediately, through the distribution of the software, bring people up to speed with the CPR and AED protocols.

Likewise, ER-CPR will help voluntary compliance with the Canada Labour Code. As of February 2000, they have recognized that CPR is a mandatory requirement for first aid responders in the workplace. They realize that CPR is important. I think that's the first step in understanding that CPR with a PAD implemented in the workplace is the definitive next step.

Bill 51 currently identifies the Ministry of Health and Long-Term Care, in consultation with emergency health stakeholders, to develop and issue training and educational guidelines for the use of portable defibrillators.

I would ask for your consideration. Would the justice and social policy committee consider the inclusion of language within Bill 51 and communicate to the ministry

and long-term-care and emergency health stakeholders to "encourage municipalities to use CPR-AED awareness prompting and refresher training software as part of a complete community partnership public access defibrillation program"?

The implementation cost for municipalities to adopt this statement is zero. They are being donated to every municipality in Canada. The goal here is to recognize, as Mr Colle is pointing out today through this bill, that we need to be more aware of just how effective these devices are, and our goal is to let the municipalities take the lead.

As an independent and unsolicited review, Yahoo! Internet Life magazine already identified it as "an incredibly useful download" through their publication in the United States. We're hoping the response in Canada will be the same.

In conclusion, I applaud Mr Mike Colle and his dedicated staff for recognizing sudden cardiac arrest as the leading cause of death in the workplace and for creating Bill 51, the Portable Heart Defibrillator Act. They recognize that public access to defibrillators, integrated with awareness and training, is the next continuum of care available to victims of sudden cardiac arrest in public areas.

CardiacSafeCity.com partners and I commend you for your leadership in holding hearings on this important public issue. As you are the employer of over 300,000 employees, you have the opportunity to provide life-saving technology and protect from liability those who are trained to use these important lifesaving devices in your workplace.

The Chair: I realize 10 minutes goes fairly quickly, but I appreciate that concise report. Thank you, sir.

RAMESES SHRINERS

The Chair: Our next order of business is the Rameses Shriners. Could you pull up a chair and we would ask you to give us your name. We have 20 minutes until lunch.

Dr Ronald Groshaw: I assure you I won't need the 20 minutes. I was telephoned after the notice of this hearing, asking if I would appear. I had some trepidation about it until August 16 when I was the town crier at the Roy Thomson Hall seniors' jubilee concert with a capacity crowd. At about noon hour, a lady collapsed on the floor. Incidentally, I am a retired medical practitioner, having worked at Etobicoke General Hospital, Sunnybrook Hospital, and doing private practice as well as university practice. To my horror, I saw this lady collapsed on the floor and rushed over to her, but from the opposite direction the paramedics were coming with a stretcher so I felt very relieved about it.

After the patient was tended to and taken away on the stretcher, I asked the lady in charge of the operation, who was wearing a uniform of Roy Thomson Hall, why she didn't bring the defibrillator with her and she said, "We don't have a defibrillator." I was really shocked at this.

The Shriners got involved in this back in 1984 when a friend of mine collapsed on the dance floor at 3100 Keele Street and he was dead. Despite CPR, nothing helped. Incidentally, CPR is not harmless, or at least no danger with CPR was in the record, I presume. There are dangers with CPR and I just want to make that clear. But despite CPR, nothing worked, and I regretted that we didn't have the paddles, which were available then in every emergency department, and that we weren't able to apply them because he might have been living today had we had those paddles.

1140

I am the treasurer of the Shriners in Toronto—over 5,000 members—and I speak with the permission of the potentate of that group at 3100 Keele Street. I want to mention that we have been concerned about the welfare of individuals at our site, not only our members but also those attending weddings, public functions and such like. We petitioned the Trillium Foundation in 1999 to see if we could get funding to help with the training of individuals in CPR and emergency health care. We do have a number of police officers, emergency measures people, doctors and nurses who are in our organization, but we still started a training program for other members so that we would be conversant. I think the average age of our members is 64.9 years of age so we are essentially a seniors group.

We did purchase a defibrillator this year. This was from voluntary contributions. Shriners contributed—the largest donation, one Shriner gave \$1,000; a couple gave \$500—and we bought the unit in March. At that time I was the only one with a card saying that I could defibrillate, except for those from EMO—emergency medical services—and police and fire officers. We have not needed to use it, but I make a plea that we need help for training initially as well as continued training and updates in the use of CPR and defibrillation.

I would like to mention one other item, if I might be permitted the time, and that is with regard to the high-rise building I live in at the corner of Dixon Road and Islington. There are 26 floors there. I cannot find out the response time from either the fire or ambulance services unless I go through the freedom of information act to get that, but I have been told unofficially that sometimes the emergency response team—it's a matter of half a minute to two minutes before they even leave the place where the dispatch was received. So I am very concerned about the time constraints. I feel that living accommodations do require it, as well as public places.

The Shriners is not a public place, but it does have a lot of public functions. In that regard, as a result of our efforts, Harold Bradley from St Catharines found out about our defibrillator at the Shriners and he tells me this week that the St Catharines Golf and Country Club has just purchased a defibrillator. I think that's wonderful, because golf courses are another place where the flag is flying at half-mast too much of the time. Many of the cardiac casualties are there.

I hope I haven't been too personal in my comments, but I do thank you for this time to relate our experiences and the fact that the community at large will be behind this bill, I feel quite certain. Let's get on and do a good job of it. Thank you very much.

The Chair: Thank you very much, Mr Groshaw, for your presentation on behalf of the Rameses Shriners. In rotation, we have a little over three minutes each for questions or comments.

Mrs Molinari: Thank you very much for your presentation and for adding your personal experiences. It added to the presentation and I appreciate that.

One of the comments you made I think referred to one of my comments, and that was that there are no dangers in CPR. I wonder if you could expand on that. What exactly are the dangers in CPR? I'm certainly not aware of them. Also, in your response, could you address the comments made by Philips Medical Systems that also said that CPR serves little purpose. In the presentations that are coming, we're hearing varying views on the necessity, purpose and need for CPR in conjunction with the defibrillator, and so I'd like your views on those two points, if you would, please.

Dr Groshaw: Addressing the last one first, if I might, the fact that—no, maybe I will mention the other one. Chest compression is the most common place where complications occur, and of course that is from the fact that fractures or dislocations can occur in the rib cage, even to the point of a splinter of rib penetrating the lung and causing a lung collapse. But that is a measured risk, considering that the individual is already—one can say that they're clinically dead, because they're not perfusing their body with blood to sustain life. So that is the most common thing, and of course the complications with breathing into another person are quite evident as well: the possibility of contamination and infection being transmitted from one person to a dead person, or vice versa; saliva, for example, or vomitus.

Mrs Molinari: Further to that, then, before you respond to my second question, and I guess it would lead into the whole notion of CPR, is the necessity, with other mechanisms that are coming out into the market now that might be more suitable, more preventive of some of the dangers—so if you could comment on, I guess, the necessity of CPR with respect to the defibrillators.

Dr Groshaw: My training has always been that CPR is an integral part of defibrillation, but I beg to defer to the experts with the new guidelines that have been enunciated. I would like the cardiologist to deal with that. I feel more comfortable, certainly, with being able to ventilate an individual. Of course, when we bought the defibrillator, we bought the Ambu bag as well to prevent infection from being transmitted from one person to another. So we are cutting down the complications that way, but that's due to CPR training, and the use of various masks for getting oxygen into the body is an integral part of the CPR protocol.

Mrs Molinari: Thank you. And you're absolutely right that the cardiologist would probably be the one who

could give the best opinion on that. This was in their presentation. I believe Philips Medical Systems are manufacturers of defibrillators, and a comment was made in their presentation. So I guess that has to be taken in context with the source and where that information is coming from. I respect your comments on that. Thank you very much.

The Chair: Thank you. Mr Colle.

Mr Colle: Just to clarify the record, I think it was Dr Kerin who mentioned that CPR is of little value to people who are victims of cardiac arrest. He didn't say that CPR in general was of little value, and I just want to correct the record there. It was Dr Kerin who said that.

First of all, I want to congratulate you for taking the time and having the interest to make this contribution here today. Certainly it's typical of the Shriners in their generosity of spirit and caring for people. I do hope you pass that on to your potestate on behalf of all of us for continuing that great work you do with burn hospitals. Certainly it's no surprise that you're here.

Dr Groshaw, you mentioned a very important example, that you were at Roy Thompson Hall and essentially a person was in need of support with a defibrillator, and there was none available. To my surprise—this is what's so shocking—if you go to the Air Canada Centre, the Toronto international airport, SkyDome, the Toronto-Dominion Centre, Commerce Court—massive, massive buildings, never mind your own building on Dixon Road—there are no defibrillators. You can imagine thousands of people who enter and access those facilities, and that medical device is not available. I think that is really the danger that exists for people who might suffer cardiac arrest. I think it's scandalous that they don't have portable defibrillators available. As you know, O'Hare airport has, I think, 40; Toronto international airport, I think, had one. So I think the people of Ontario should be saying, hey, the liability should be on that side, and why aren't the defibrillators there when they could help save a life?

I think there should be an audit of all these public places where there is this potential to help people and help EMS do a better job. You, by your example of Roy Thompson Hall, really spoke eloquently about this gap that exists. Thank you so much again, and please pass on our thanks to the Shriners. This is a great opportunity for service clubs all across Ontario to pitch in and sometimes buy defibrillators. They've done that in certain communities for non-profit groups. It's a great partnership between government and the Shriners and other service clubs. So continued good luck and thanks for your interest.

Mr Kormos: Was it the Trillium fund that funded the purchase of the defibrillator?

Dr Groshaw: We made application to the Trillium fund in 1999 because we were told that money was available for training in first aid. They replied to us that this was a medical issue and it was dead in the water. A colleague of mine asked that it be reviewed. He protested their decision and we have not heard anything since.

Mr Kormos: Since 1999?

Dr Groshaw: He made the protest in 2000; it was the year 2000 when we got the reply back from the Trillium fund.

Mr Kormos: I don't come from Toronto. I come from a small town down in Niagara, and I know the Shriners down there are good. They've been great folks in the community. I'm going to tell them they were well spoken on behalf of today. All these little ethnic halls we've got down there, the Legion in Pelham and St Catharines, these people have no money. These people are barely hanging on to their halls, yet they host huge public events—the senior citizens' centres down there in Thorold and Welland.

Trillium it's disappointing to hear, but they have their guidelines. I think my folks would support a government program that, for instance, financed the acquisition of defibrillators and the provision of training programs for, let's say, the people who run the Slovak Hall, because they are there when the weddings are on. They're not at the wedding; they're working, they're serving. Do you support that proposition of broad-based—

Dr Groshaw: I certainly do.

Mr Kormos: It's going to cost money.

Dr Groshaw: Our facility has had two oxygen tanks in it for years; never been used. But we have a service representative coming in every three months to check them to make sure they're still functioning. I think the same thing should happen with our defibrillator, which we got in March.

Mr Kormos: So we should have a specific program here to enable non-profit organizations to buy defibrillators, to have some guidelines on how many they need, and some training, some support in terms of ensuring that the people who are in those halls and so on know how to use them. I think taxpayers would go for that, don't you?

Dr Groshaw: I think so.

The Chair: Mr Groshaw, on behalf of the committee, thank you and thanks to the Shriners.

I have a brief announcement before we adjourn until 1 o'clock. Our clerk has arranged transportation. This committee will be travelling to the airport; we're leaving at 4:40 at the south doors, the main doors. We recognize it's rush hour. There's a concern. I appreciate the committee helping me to keep us on schedule. I think that will be crucial this afternoon. I'm very nervous about leaving at 4:40 for the airport for a 7 o'clock flight.

The committee recessed from 1154 to 1301.

JIM WRIGHT

LYLA COMMANDANT

The Chair: Good afternoon, everyone. We can now reconvene our afternoon sitting of the standing committee on justice and social policy dealing with Bill 51.

Continuing with delegations, I would now ask for the next delegation to come forward to the witness table. Have a chair, sir. We would ask you to please identify

yourselves for our committee and for the purposes of Hansard. We have 10 minutes.

Dr Jim Wright: Thank you very much. I would first of all like to thank Tom Prins for getting this opportunity for us to come here and address the committee.

My name is Jim Wright. I'm a medical doctor and I've been in practice for 45 years in Muskoka. I also have been a coroner for over 40 years, so this is something that has been particularly brought home to me over the years. As a coroner I've had first-hand experience of the benefits which could accrue from timely cardiac defibrillation. In the early 1960s, I had the opportunity to defibrillate an elderly doctor who had preceded me in my practice. This had a profound effect on my outlook and in my attitude regarding this procedure. These procedures were in their infancy at that time, but they now have become almost routine and much more sophisticated.

As a matter of interest, in Australia, Mr Kerry Packer, who is a wealthy industrialist, was resuscitated a few years ago and he was so filled with gratitude that he made defibrillators available in all Australian ambulances. That's how much he appreciated the fact that he had literally been brought back to life.

The concerns with defibrillators you've already been discussing. The ubiquity, which means who all is going to have it and who is not going to have it, is a big problem. I feel the bill seems to be making a stab at addressing the situation.

Of course, another thing is the cost. I was checking around. I was talking to Dr Groshaw, and he showed me a cost of around \$5,000. I checked at the hospitals that I am associated with, and they quoted a price of \$15,000. That's quite a bit of difference. Then, of course, if you had a large number of machines being used, maybe the government could see to being a central purchasing agent and have the advantages of buying large volumes of them. You'd probably get a much better price.

There is the familiarization of people with the application of them. This would have to do with the different groups that have been talking to you today and will be talking to you later.

The possibility of volume discounting could be investigated. It might require some special committee to be established; I don't know. Maybe I'm way out on this sort of thing.

Hundreds of lives in Canada and thousands of lives in North America annually could be saved by the timely availability of cardiac defibrillation. The main cause of fibrillation is usually coronary artery disease, just to give you an idea of why it seems to be such a problem. There are other causes, of course, but this seems to be the main cause. People have heart damage and it strikes them, and maybe they don't even know they have any problem.

Lyla Commandant, who was formerly the chief of the Wahta reserve, is usually good at stirring up the pot, so I asked her if she could say a couple of words.

The Chair: Thank you, Dr Wright. Please come forward. Could I get your name again for Hansard, please.

Ms Lyla Commandant: My name is Lyla Commandant and I'm a Mohawk. I live on the Wahta Mohawk Territory. I was a former chief.

I guess when I saw this Bill 51, I thought it was such a wonderful idea and I felt it was something that my people certainly could use. I realize that this is a provincial undertaking, but I'd like to see such an initiative spread across Canada. I'm aware of a lot of the problems we have. Many of our communities are isolated and certainly could use this technology. I'm confident that Minister Nault and the Department of Indian Affairs would contribute to this worthy project. I sent a copy of this, my comments, to Robert Nault, Minister of Indian Affairs, and Andy Mitchell, our member of Parliament for Parry Sound-Muskoka; also to Norm Miller, our member of Parliament for the province in Parry Sound-Muskoka.

Dr Wright: I also have one other here from Lois Neely, who was appointed by the province of Ontario to represent seniors in Canada on the coordinating committee for the International Year of Older Persons. She asked if I could just read this very short piece that she's given to me.

"On behalf of Ontario's 3.7 million seniors, I am requesting that the committee give consideration to the requirement of said defibrillators being installed in:

"(a) all long-term health care facilities in the province, that is, licensed nursing homes and homes for the aged;

"(b) all retirement residences, assisted living facilities—whatever designation they give to themselves. They have no licensing, no regulations except those required by the local fire department. There is no list of where they are, yet hundreds of thousands of Ontario seniors are lodged in these unlicensed, unregulated facilities.

"Therefore I recommend that the local fire departments be responsible for overseeing installation of this very wonderful, life-saving equipment...."

That's from Lois Neeley.

Just to finish up my little talk here, I would like to take this opportunity to congratulate MPP Mike Colle for bringing in this private member's bill, demonstrating that the province of Ontario is a caring, forward-looking environment probably unmatched by any other territory or area in the world. Thank you very much.

The Chair: Thank you, Dr Wright and Ms Commandant. We have perhaps one minute for each party.

Mr Colle: Certainly on behalf of all my colleagues I want to thank both of you for coming all the way from Muskoka to support this initiative. I know that you, Dr Wright, as a coroner and medical practitioner have been advocating for decades. I'd also thank Lyla Commandant for passing this on to your federal member and to the Minister of Indian Affairs. That really helps and that's how we can really, as you said, Lyla, get these right across Canada. Again, thanks for letting Norm Miller know about your interest in it—I think that will help—and give my regards to Bill Grimmett for encouraging you to come down here. Thank you so much for your efforts and support.

1310

The Chair: Mr Kormos, a comment?

Mr Kormos: To both of you folks, I join Mike in thanking you for showing interest in participating, and to Ms Commandant, I read your letter, along with Ms Neely's, in the package. I've been, for instance, up along the coastal reserve, James Bay, Hudson Bay, where you are talking about communities that have to be entirely self-sufficient. But then in conversations with a pile of people, this is not an isolation/dense-population issue, because you can be in the biggest city in Ontario, and if there isn't a defibrillator there, it's too bad, so sad.

I think you know that my interest here is one of how small communities, how small organizations that host seniors, that host public functions, are going to be able to afford these things. That's why I've been raising consistently the issue that there's got to be some sort of serious government funding so that communities across Ontario can access this type of equipment and the training. So thank you very much. I appreciate it.

Mrs Molinari: Thank you very much for your presentation. We all get one minute to ask you questions. I noticed that you were both in the audience and heard the presentations this morning, so you heard some of the issues that were raised. With your background, Doctor, and your experience, could you just briefly highlight some of the risks of using a defibrillator improperly?

Dr Wright: Most defibrillators, not all of them, are pretty well foolproof. They take a reading to say whether a person is really fibrillating or in cardiac arrest and they know the proper voltage; all you have to do is apply it. Even a layperson can do it. It doesn't carry nearly the danger that, say, CPR would when a great, big person would be jumping on the chest of a small, elderly lady or something like that. You can do a lot of damage there, but this won't do any damage.

Mrs Molinari: In your view of CPR in conjunction with defibrillators, do you think they're both necessary?

Dr Wright: Yes, they are, but with the cases I've had when you've managed to defibrillate them—that is, to convert them to sinus rhythm—they don't need these other things. They don't need the respiration. Usually it occurs spontaneously.

Mrs Molinari: So you could use a defibrillator without administering CPR.

Dr Wright: Yes.

Mrs Molinari: Thank you.

The Chair: Thank you, Dr Wright and Ms Commandant. We appreciate your comments.

MONTE HARRIS

The Chair: I now wish to call forward Mr Justice Monte Harris. Good afternoon, sir, and welcome to the committee. Have a seat; we have 10 minutes.

Mr Justice Monte Harris: I'm going to be less than that, I can assure you. If I'm not, just tell me and cut me off.

Thank you very much for the opportunity to address this committee in support of Bill 51 and the installation of these portable heart defibrillators in public places, and especially including courthouses such as the old city hall, as one example in Toronto. I also want to thank Mr Prins and Ms Perryman for scheduling me into a time slot so that my presiding duties today would not be significantly disrupted, even though they were.

I want to briefly discuss two things: first, why I'm interested in an issue such as this, and second, why I support this particular bill, especially in relation to courthouses in public buildings.

Off the top, even though I'm a judge, I have absolutely no problem whatsoever appearing here today in my capacity as a judge and in my capacity as a private citizen, because it should be apparent that this bill and this issue are totally non-political. It's a motherhood issue and it's totally related to health, as far as I'm concerned, and I believe as far as anyone who addresses it is concerned.

First, why am I interested in this issue or an issue such as this? I come by my interest in health issues honestly. My first undergraduate degree was referred to as a BPHE degree in physical and health education from the University of Toronto. Because health has taken on such significant prominence in the past couple of years, the degree is now referred to as a bachelor's degree in physical education and health. So they've given health a special category in that particular degree. As a result, I still try to follow health issues; a significant interest, I might say.

Why do I support this bill? I have an interest in cardiac issues and I feel the installation and use of these defibrillators can do nothing else except save lives.

Let me give you a quick rundown, or a chronology of my involvement and my very humble knowledge of this. I read a Toronto Star article in October 1999—I read the Star only because the crosswords are pretty easy; that's about the only reason I get to read that newspaper—stating that the city of Toronto was proposing that these machines be mandatory for such places as office buildings, arenas and theatres, much the same as fire extinguishers are mandatory pursuant to municipal bylaws.

As a result, I communicated with and wrote to my Chief Justice, the Honourable Brian Lennox. Just very briefly I'll read from the letter. I'm going to pass this material out; there are just three pieces of it which you might get some time to read on your way to Ottawa today.

I said this in my letter to him: "I urge you to consider recommending the purchase and installation of a machine in all our courthouses, specifically Old City Hall, which is always heavily populated, for potential use not only by the judges, but also the staff and public. The implementation of the machine may also require CPR training." That was the case at the time, not necessarily now.

"In light of the importance and significance of a defibrillator, and in relation to Old City Hall, I am quite prepared to make a financial contribution toward the cost."

In seeking his support, I made it quite clear then, and I want to do so now as sincerely as I possibly can and from the bottom of my heart, that this was never meant to be a perk for judges, who obviously work in courthouses. It was meant to be for the use of everyone who enters.

Let me provide you the example of the courthouse I'm in. I preside at the Old City Hall in Toronto. This is the hub of the administration of justice in Canada. Everybody across the country knows about Old City Hall. Hundreds of people enter that building as employees and/or public daily. Unfortunately, some do not leave, not because of cardiac issues, I might say, but because of other reasons. But besides judges there are numerous staff, the cleaning staff all the way down, as well as administrative staff, crown attorneys, defence counsel, witnesses, accused persons, visiting school classes and sightseers generally, just as they come through this building here—all sorts of groups.

Old City Hall is also peculiar because of its geographic and physical location. It's in the heart of the business and commercial community in the city of Toronto. Traffic around it, as anyone who is familiar with that part of the city knows, especially during the daytime, is always congested. Without a portable defibrillator I wager it would take a significant amount of time for an ambulance with trained personnel to get to Old City Hall. Then, irrespective of whether the issue is a cardiac issue or another health issue, it still takes a lot of time to get from the Old City Hall courthouse parking area to a hospital.

In the month of November 1999, the Chief Justice saw wisdom in my recommendation and he referred my correspondence to the assistant Deputy Attorney General, who acknowledged the correspondence and nothing more. It isn't necessary for me to review the deputy's correspondence, because it was and is of absolutely no consequence whatsoever.

In the month of January 2001, I became aware of the outstanding work of Mr Colle and I immediately communicated with my Chief Justice. I sought his opinion on the efficacy of my communicating with Mr Colle because of our relationship and our respective positions, to indicate my support as well as his own support. We both decided that this issue is not a political issue; it is a health issue, and it's a health issue of major significance. To his credit, he told me to run with it, and I proceeded to do so.

I wrote a note to Mr Colle, and I've got that as part of the little bit of material here. I just want to read a paragraph or two from it.

"I was delighted to read in a recent ... neighbourhood newspaper about your private member's bill for the installation of heart defibrillators in public buildings. I am indeed hopeful your bill includes courthouses.

"With the support and encouragement of my Chief Justice, I have since 1999 been seeking and urging the installation of defibrillators in our courthouses, especially Old City Hall, Toronto, the hub of the administration of justice in Canada, and certainly in Ontario. Aside from members of the public, ie lawyers, witnesses, touring groups, and accused persons, who attend on a daily basis,

as necessary, some 250 to 300 persons including judges, crown attorneys and support staff, to name but a few, are employed in the building on a regular basis.

"I enclose some correspondence showing my humble efforts. Because this is an important and obvious 'people' and 'health' issue, as opposed to a legal or political issue, I have no hesitation in offering my encouragement and support"—and this is the important part—"because it may save the life of someone dear to me or us."

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This letter probably speaks far more eloquently than I can and probably says everything I can possibly say, but I have one more submission to make before I conclude, if I may. One of the health publications I subscribe to is the Mayo Clinic Health Letter. Coincidentally, the February 2001 issue came out with an article headed "Sudden Cardiac Death," and this is with the material that I propose to distribute. You might have an opportunity to look at it. I won't say where, but you may have an opportunity to look at it. Let me just read three or four short paragraphs from that article; it's a two-pager or a page and a half, I suppose.

"Advanced care for ventricular fibrillation typically includes delivery of an electrical shock through the chest wall to the heart. The procedure, called defibrillation, momentarily stops the heart and the chaotic rhythm. This often allows the normal heart rhythm to resume.

"Typically, the only chance of survival has come from emergency medical personnel with equipment only they know how to operate. In big cities or rural areas, help is frequently slow to arrive, and people are often dead before the paramedics get there."

They talk about some statistics in the States which aren't necessarily here but may very well apply.

"But now, this care is becoming much more available. The same devices used in emergency rooms to treat people with sudden cardiac death—defibrillators—are available in a smaller, portable form and come with built-in automated instructions to ensure proper use.

"These portable defibrillators are being made available in an increasing number of public places. These include sports stadiums, train and ferry terminals, airports and airliners, casinos, amusement parks, health clubs, community and senior citizen centres and shopping malls.

"Portable defibrillators are programmed to recognize ventricular fibrillation and only send a shock when it's appropriate. It's possible to become trained in their proper use in a single four-hour course."

If I had any doubt about this particular program, which I do not, this article certainly resolves it. I assume that everyone shares the same respect for the Mayo Clinic that I do.

My rationale for urging members to support this bill is really very simple. The availability of these portable machines may save not only your life or mine but also the life of someone dear to you or me.

Many, many thanks, Mr Chair, for the courtesy you've shown and the attention you've shown in permitting me to make this submission. If there are any questions, I

assume they're going to be very simple, because I'm not too swift a guy.

The Chair: We do thank you, Justice Harris, and you have used up the 10 minutes allotted. We appreciate your report to the committee.

Mr Justice Harris: I'll leave this with Mr Prins, if I may. These are the 20 copies that I think you may require, and you may wish to take a look.

The Chair: That would be fine.

Mr Kormos: Chair, understanding my former career, do you know how much I relished the opportunity of putting one to the judge?

Mr Justice Harris: That's only fair because he appeared in front of me, not as an accused, and I had questions of him.

CITY OF WINDSOR

The Chair: I now wish to call forward the city of Windsor. Please approach the witness table and have a chair. Good afternoon. I would ask you to identify yourself for Hansard.

Mr Tom Wilson: Thank you very much. I'm Councillor Tom Wilson, city of Windsor. I've been a councillor for 16 years.

Mr Wayne Currie: My name is Wayne Currie. I'm the corporate public access defibrillation coordinator for the city of Windsor.

The Chair: Thank you. Please proceed.

Mr Wilson: Thank you very much, Mr Chair and members of the committee, and my former city councillor, Mr Dwight Duncan. It is a pleasure to be here. We appreciate being invited.

I would like to formally announce to you the city of Windsor's support of the proposed Portable Heart Defibrillator Act. I will give a brief history of Windsor's response to out-of-hospital cardiac arrest.

In 1989 Windsor provincial ambulance started providing defibrillation. In 1994 the fire and rescue service started providing defibrillation in the same year that Casino Windsor purchased defibrillators and began saving lives. In 1997-98 all major manufacturing plants in Windsor, known as the automobile capital of Canada, and additional gaming locations, namely Windsor Raceway, implemented AED programs.

The city of Windsor was one of three cities in Canada to pioneer public access defibrillation. Calgary and Vancouver were the other cities. Windsor pioneered PAD in Ontario. This was made possible due to the leadership and direction of the regional-based hospital medical director Dr Curtis Fedoruk. In 1999 the city of Windsor council passed a resolution to support PAD within workplaces and key locations with the city, as well as to promote PAD across the province. A declaration was passed declaring the city of Windsor the Cardiac Caring Community. Thus, the official municipal-based PAD program began. It was on July 19, 1999, a little over two years ago, that the resolution was passed, that the community access defibrillation program, which will

provide automatic external defibrillators in workplaces and other key locations throughout the community, which will assist in improving survival rates of sudden cardiac arrest victims, be approved. That was passed unanimously by city council.

I do have a personal interest in this. In 1987, I suffered a minor heart attack. In 1999, I had two angioplasties and again in the year 2000. Since then I have been extremely lucky and have had no more heart problems, but I know that if something happens to me in the city of Windsor the PAD program is there, not only for myself but for the other constituents and visitors to the city of Windsor.

At this time, I'd like to turn it over to Mr Wayne Currie.

Mr Currie: Thank you, Tom. You have before you a booklet. I'm going to keep reference to the booklet very brief, but I will focus on a couple of areas. After that, we'll be able to take questions from you.

The first segment, and I want just to go through it briefly, is with a tab, is the standard operating procedures program for the city of Windsor. Due to the lack of appointment of a provincial authority, as part of the bill calls for, the city of Windsor had to create and develop an SOP or a working rule to establish what the guidelines were going to be for that.

On page 5 of this program, specifically 6.1.3, it identifies that AED units will be placed in city of Windsor publicly owned locations and in proximity to telephones to access 911. Some of those issues were being addressed. Also, the following point: AED units must be prominently displayed in wall cabinets throughout these facilities. Each site had to identify a cardiac arrest plan. This whole procedural guide referenced a few things: quality assurance, medical direction and, as well, training and certification, some of which I know has probably been talked about in depth today, but we do want to focus on several.

Provincial SOP: hopefully this particular model. Obviously some of the material here is in draft or it's not for external distribution. Today it's being presented before the committee. Some of the studies we've talked about are currently pending publication, so obviously the publication concern is that it stays within this committee.

The next item to talk about within this is on page 12. It identifies some of the corporate SOP. These are some of the locations the city of Windsor identified, through rigorous research, where we should place these AEDs. Phase 1 of our program trained approximately 250 employees. These were non-traditional, non-target employees. Some of them were workplace responders, but the majority were just employees within their job descriptions who volunteered to begin training in this program.

In phase 2, which is currently in the process of being completed, we've trained an additional 600 employees outside the fire and rescue service. These are police officers, other agencies, lifeguards, Zamboni operators for arenas and pro-shop clerks for the golf course. It's a wide range of staff. This SOP is lacking in the province. We understand that, and that's part of what we're going

to discuss. Hopefully this model could be utilized as a reference for our Ministry of Health to mandate to base hospitals we wish to address.

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The next tabbed area is one of the studies. You may have heard quite a bit of conversation about casino reports and survival rates. From 1994 to 1999, there was a published study that compared the survival rates of the Casino Windsor on-site defibrillation project to the greater city of Windsor and had dramatic findings. The on-site program at Casino Windsor had 23 patients collapse due to cardiac arrest, 15 of whom were discharged from the hospital neurologically intact. That's a survival rate of 65%. When we look at the community, the greater city of Windsor, we had 668 cardiac arrests during that same period of time, and only 37 patients were actively discharged from hospital neurologically intact. That's a survival rate of 5.5%. The chance of survival is 12.75% higher in an on-site defibrillation program than out on the city streets. That concerned us and also made us focus our concern on developing a PAD program.

The next tab is locations of cardiac arrest. This is an affirmation of community public access defibrillation programs. We do support this quite aggressively in the community, throughout the province and in North America as well. The purpose of this study was to describe the locations of cardiac arrests—to identify public locations and the annual incidence of arrests. This was to help determine optimal placement of AEDs. Again, this is lacking: there are only two other studies of this magnitude in North America, one in Seattle and one in Dallas, Texas.

The method was that we collected all the ambulance call reports from the Essex-Kent base hospital program. Again, the data collection aspect of the base hospitals cannot be overlooked. We identified and categorized 28 public locations in five categories. Fifteen percent of all cardiac arrests within our community—and that was not just the city of Windsor; it was the city of Windsor and the counties of Essex and Kent, formerly known as Chatham-Kent. We identified approximately 2,100 cardiac arrests. Fifteen percent of those were in public locations.

Section 2 of Bill 51 brings to light the possibility of mass deployment of AEDs. We do support that, but we encourage that expert advice needs to be considered to properly identify locations of cardiac arrests. Base hospitals could be utilized within the communities to identify the data they've collected through ambulance call reports, fire and medical assist reports and through the hospital network they have in place.

Just the identification of our study—we talked about provincially owned buildings. In our region, the region from Chatham-Kent down, we identified at least one cardiac arrest per year of the study, being 1994 to 2000, most being at casino locations. The average incidence of cardiac arrests was 5.7. It breaks it right down—the study is in front of you, so we're not going to spend a lot of time on it. I'd like to be available for a lot of questions.

The conclusions of some of the review of the bill itself: section 3 calls for some sort of provincial authority. The city of Windsor would like to make a recommendation that the Ministry of Health look toward the funding matrix that has been provided to Ontario base hospitals. The Ontario base hospitals are in the key position. Whether it's involvement with the ambulance, fire, community programs, hospitals and/or dispatch centres, they are considered the experts. They have the expertise, and they are the centres of excellence for continuity of pre-hospital care in the province.

Medical direction, in section 3: the reason we'd like base hospitals to be considered as a provincial authority is obviously the integration of the entire EMS system right through pre-hospital care. We don't have another committee or group that could be established. We have in place a current matrix with the Ministry of Health that could provide additional funding to the base hospitals. Base hospitals are simply mandated programs. There are 26 of them that cover every square inch of the province of Ontario. Why not use the resources available to us?

Coordination: the coordination itself and the notification of AEDs within the community is essential. We need to know if AEDs are being placed by industries, by private groups or programs.

The last thing we'd like to talk about is section 4, which talks about liability. I think we need to expand and make that a little bit broader to protect training agencies, the trainers themselves. Possibly even the medical directors need to be looked at here.

There is one final statement I'd like to make before the committee, and then I'll turn it over for questions from you. Since the PAD program started in the city of Windsor, we've had 33 cardiac arrests within PAD locations—not anywhere else, but within PAD locations. Nineteen patients—citizens, fellow human beings—have walked out of the hospital neurologically intact. That's an overall survival rate of 57.6%. That's three lives a year that have been saved due to the PAD programs at these sites. We fully support PAD. We encourage the province and this committee to push this to the next reading. Hopefully, if this bill is passed, it will provide the legitimacy for communities and mandate procedural capabilities for communities to establish programs and save lives.

Thank you for letting us speak. I'm open for questions.

The Chair: Thank you, Mr Currie and Councillor Wilson. We have two minutes per party for questions. We'll begin with the NDP.

Mr Kormos: What provoked this? What drove this in Windsor? How did it develop when obviously it hasn't in a whole lot of other communities in the province?

Mr Currie: Obviously, the reason it started was that we had a serious look at our community. We had a medical director who was not afraid to launch an innovative program that was not being endorsed or promoted by the Ministry of Health, and we were concerned about our community. We investigated CPR training. We did mass deployment of CPR, we've been doing mass

training sessions for the public for over 20 years, we have aggressive CPR training programs. We've tried every other angle. We have advanced paramedics, we're involved in the OPALS Study. But eventually we had to look at other avenues to increase our survival rate, and we looked toward this.

Mrs Molinari: Thank you very much for your presentation. It's helpful to hear from a municipality that's already in the process and has taken the initiative early on in doing this. One of the questions I have is: the OPALS Study indicated that 26% of fire departments and 1% of police departments in Ontario carry AEDs on their emergency response vehicles. What would the percentage be in Windsor? Seeing that you've taken this ongoing step, I assume, maybe incorrectly, that your percentage would be higher than the provincial average.

Mr Currie: The average that you have currently in front of you is incorrect. Right now I'm calculating, on behalf of the Ontario Association of Fire Chiefs, the actual number of defibrillators in service. It seems to be much higher. It's preliminary information at this time, but I suggest this committee try to get in contact with the Ontario Association of Fire Chiefs.

In our community we have approximately 10 fire service programs, and we have nine out of the 10 fire service programs participating. The last one is in the official stages of getting its town council involved for the approval for funding. So we have aggressively attacked those areas of our community.

Mrs Molinari: You talked about the fire service. What about the police?

Mr Currie: In the police services, currently the RCMP in our community have several units, and just shy of 450 Windsor police officers have been trained. We're in phase 2 of the city program. We'll be launching AEDs in strategic police vehicles, and they are currently available within department stations and cellblock areas.

Mrs Molinari: Just generally, and you don't have to answer if you don't know, is it safe to assume that Windsor would be higher than the provincial average? You indicated that we need to review these figures and see the accuracy of them, but is it safe to say that in Windsor they would be higher than the provincial average, given that you've taken this additional step in providing defibrillators in all public places?

Mr Currie: Are you referring to the survival rate or just AED—

Mrs Molinari: I'm referring to fire departments and police departments. I guess one would say that those are the areas that should be first. All 100% should have defibrillators. Assuming that, then you move on to public places and everywhere else.

Mr Currie: In the city of Windsor, the fire and rescue service has been utilizing defibrillators since 1994. The police will be starting to. They have had an initial program, a very small program, since 1999. They will be launching a larger scale program in the fall of this year. So we have addressed those issues as targeted responders within our community.

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The Chair: Mr Colle?

Mr Colle: I certainly want to commend the outstanding work done in Windsor. This is probably one of the most advanced and sophisticated programs in all North America, and I don't think we appreciate that. I hope the rest of the country follows Windsor's lead.

It is an astonishing amount of work and research you have done, above and beyond the call of municipal responsibility. I certainly want to make sure you pass on our thanks to Dr Fedoruk for his aggressive leadership in this, and certainly to Mayor Hurst, Councillor Wilson and the rest of your council for taking this kind of lead. I think the material you've given us, which we're going to be able to look over and certainly hand over to Ministry of Health officials and so forth, will be invaluable for us as a committee, and hopefully for the Legislature, in terms of coming up with a program that can use the groundwork Windsor has done.

I guess the most astonishing thing you said was that the survival rate in the Windsor casinos was 65%. If that doesn't speak volumes for all the work you've done and the value of defibrillators—that's an astonishing figure compared to the street survival rate of 5%.

Has anybody been able to refute or question that or say where these figures lie?

Mr Currie: No, the study figures came from the OPALS Study. As well, the Casino Windsor study followed the template set by the study in Las Vegas, Nevada. So the study itself is bulletproof. It's gone to publication; it's passed all the peer reviews. This is factual data that we need to support and push throughout the province.

Mr Colle: Yes, and I guess it's great advertising: if you want to be in a safe place if you're going to have—go to a casino, I guess, especially a Windsor casino. We're not saying that, but it is an astonishing figure anyway.

The Chair: Thank you, Mr Currie and Councillor Wilson. We appreciate your report.

HUMBER COLLEGE HEALTH SCIENCES

The Chair: Our next delegation is Humber College Health Sciences. Welcome. Could you identify yourself for the committee, please?

Ms Nicola Simmons: My name is Nicola Simmons. I'm here today with a diverse, relevant background. I represent Humber College today. I'm also an instructor-trainer in defibrillation with the Heart and Stroke Foundation. I conduct a number of instructor courses around the province each year, as well as train providers and response teams. I have been involved in pre-hospital care for 20-plus years. So I'm here with some interest in seeing some of this go through.

There are perhaps some still-unanswered questions or concerns that have been raised through this morning's proceedings. Just very briefly to touch on a couple of those, I think we're still tossing around the question: is

CPR a relevant part of defibrillation? I think we have to look at some of the issues around that.

Without CPR as a follow-up or an interim measure if defibrillation is not immediately successful, we have nothing left to defibrillate; brain death is going to start within three to five minutes. If we don't have somebody at the scene who is trained in CPR, unless it is an immediately successful resuscitation, it's unlikely we're going to have a patient who will survive. So as we look at any training programs, I think it's certainly relevant that we make sure CPR continues to be a part of those programs.

There's a quote that may be of interest. I think any time a new initiative is brought forward, there are obviously dissenters. The quote is from high-level cardiac medical practitioners, and it goes roughly like this: while this is clearly a valuable life-saving tool with the potential to save many lives, it is also clearly a procedure that can result in potential harm and even death and must therefore be left in the hands of the medical practitioners.

That happens to be a quote from 1963 and it refers to CPR. I think sometimes, with the issue in front of us at the moment, we adopt that same approach to AEDs. We may not, as the public or as health practitioners, balance appropriately the potential risk with the potential survivability. I think if we look at things like the ambulance dispatch protocol and the Heart and Stroke guidelines, they are based on the assumption—and it's well validated in the literature—that a high enough percentage of unconscious adults are in cardiac arrest. Surely if we begin by saying that our training must teach people to recognize unconsciousness, I think some of those other risks can be minimized. I still think we need training in combination with it but certainly support and welcome anything that would take us forward.

I'd be happy to answer any questions. I don't want to get into the details. Humber is one of many places offering training, but I'm really here more to give any support I can for this kind of initiative.

I would just like to end with another quote, a more recent one, again by a medical practitioner: "One hundred years ago there were a whole bunch of things the average guy couldn't do. The average guy couldn't tune in a radio frequency. But if you build the technology into the machine, then anybody can do it."

I would suggest to you as we talk about training—and one of the things that was brought up this morning—that a worst-case scenario might be that I need someone other than a doctor or a nurse. The person I'd really like to be holding the defibrillator when I go down is my 13-year-old, video-game-playing son because I bet he could do it even without the training.

Thank you very much for your attention.

The Chair: For the comments or questions rotation I will go to the PCs.

Mrs Molinari: How much time do we have?

The Chair: I would say three or four minutes.

Mrs Molinari: Thank you very much for your presentation. Your extensive knowledge and background in this

are certainly helpful to this committee as we listen to all of the presentations. What I'm trying to gather from the presenters today and tomorrow, which will be the two days that we'll be listening, are some common themes of safety with respect to the defibrillator. It's safe to say we all agree that if there is any lifesaving technique that we can implement in legislation, it's something we should all support, and that would be something I would rally for as well.

Part of the issue that comes up is that it's not quite that simple. There are some risks and some dangers. We've heard some from presenters here this morning, and I anticipate we'll be hearing others. The concern I have is someone using a defibrillator incorrectly which might cause some type of reaction that is worse than having the patient stay there and wait for an ambulance to arrive, because it's so available and accessible.

Ms Simmons: Could I just address that? I don't know if there's a part (b) to that, but I don't think we have activities that are without risk. You have to acknowledge that there is risk with anything. There could potentially be risk with me taking down a fire extinguisher and misusing it. That hasn't prevented us from making it widely available. I'm not trying to say that we should disregard the risk. I think the key is, as it is in section 3 of the legislation, that it be combined with relevant training.

You can train people away from the risk. I can teach you to use the basics of the machine in five to 10 minutes. The remaining four and three quarter hours of our program with Heart and Stroke are dealing with the safety issues and the appropriate use.

Also—and this is a personal opinion; I guess it's maybe just an observation of human nature—I'm not sure we're going to see untrained people taking defibrillators and using them. My guess is that the fear factor of the machine, until we train people away from that, will be high enough to prevent it. And I'm not talking about vandalism. It tends to be true with fire extinguishers and other equipment like that. My concern with the training we've been doing so far is more with making people familiar and not afraid to use it so that we don't end up with the same game we've had with CPR, which is that they're afraid to use the skills they may have learned.

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Mrs Molinari: A previous presenter stated that it can be taught or trained at a grade 6 level, and you indicated that you would feel quite comfortable with your 13-year-old son administering it. What I'm gathering is that it's fairly simple to teach the process, the procedure on how to administer it safely.

The other side to that is that how to administer it is the technical side, but there's a whole humanistic side to that as well, as to the comfort level of an individual using it and the panic factor and all those things that come into play. Could you comment on that?

Ms Simmons: I don't want to be repeating the same point, but in 20 years in the field, watching the evolution of what our comfort level is with CPR, I'm seeing strong parallels. We really did start off with, "Who could safely

do this?" and "Where might the harm be?" and "How difficult is it going to be to teach them?" We're certainly aware there are emotional factors and decision-making processes around that, but on a purely personal note I would say to anybody, "Go ahead." If I collapse, I'd much rather somebody tries it than hesitates because of their concerns.

Mrs Molinari: Then there's no danger in using it if an individual doesn't need it and someone uses it?

Ms Simmons: You can't say there's no danger about it. Certainly there are people with more specific knowledge than I have about each of the machines and what they can and can't do. I know some of them have built-in motion detectors, so that if you inadvertently jiggle the stretcher, the machine will tell you. It's a machine, though, and I suspect you can trick it. The question is, how do you work into your training program—and maybe it's as simple as making sure the legislation includes training so that those issues are appropriately dealt with.

The Chair: Mrs McLeod, and Mr Kormos has graciously surrendered a couple of minutes as well.

Mrs McLeod: Good. My first question may seem almost irrelevant, but I'm intrigued with the fact that coming under the college you're an emergency skills program adviser. Does that have you teaching emergency skills in the health sciences programs or are you an advisor to the faculty, teaching emergency skills to the faculty?

Ms Simmons: My main role is to hire our part-time faculty who would teach CPR, first aid and defibrillation. Our primary target group to date has been our students, who acquire those areas as a prerequisite to other health sciences programs. In the last few years and partly just through a little bit of internal promotion we've started to have people coming to take the defibrillation program as well, but at the moment it's more to make their application or resumé look good for certain positions.

Mrs McLeod: So you're already in the business of teaching defibrillation.

Ms Simmons: Yes.

Mrs McLeod: Does the college then have public access defibrillators that can be used?

Ms Simmons: We haven't finished that step yet. Like yourselves, we have a committee looking at it.

Mrs McLeod: That's where my question was coming from. I'm wondering how widespread that would be in the colleges. I guess what I'm wondering is, I'm hoping that the provincial government, all of us here, is going to pass this bill, I'm hoping the government is going to see that they have to provide the model of putting it into provincially owned buildings and I'm hoping that each of the municipalities will have the kind of leadership that we just heard from Windsor. I'm not sure we're all going to have medical directors who are going to pick up the causes, as Dr Fedoruk did in Windsor, but I'm wondering whether you see some ways in which that community leadership can be built. Public health units, college health sciences faculties, who do you think is out there?

Ms Simmons: We've struggled with the issue of whether the college is the target demographic for something like this. I think we heard a lot about where the majority of cardiac arrests are occurring. I've been a volunteer with Heart and Stroke in various capacities for most of that 20 years and I see time and time again in all of these fields that it's a dedicated volunteer or someone who has gone beyond their job, as Mr Currie has and as a number of speakers this morning have done. I don't know if the legislation can or should try to delegate who should assume the leadership.

Mr Colle: Thanks to Mr Kormos for giving up his time.

Again, I want to thank you for the interest and the work you've been doing, not only professionally but as a volunteer with Heart and Stroke. I guess the quote you read from the 1960s reflects the sentiments of Ron Kelusky, who is the head of Toronto ambulance. He said it's almost an echoing of the debate they had over CPR, where they said, "Only professionals should do it. Don't touch. You could hurt a person's ribs." It's something that was scary and that we should stay away from. So I think your quote really hit the nail on the head.

We're going through the same thing here. We have people saying—I even heard ministry officials saying that there are dangers with these machines.

The thing I ask you is, what are the dangers of not using them? Which is the greater danger? In what proportion are these dangers in using this technology?

Ms Simmons: Again, I reflect on a personal note. I live in a neighbourhood where purely because of the expected response time, anyone who would have a cardiac arrest in that neighbourhood wouldn't make it. When you look at a 10% increase in mortality per minute of response time to getting a defibrillator attached, those people would not survive. It's very unlikely.

If you look in the paper I distributed, the first page of an article from the Nevada casino study, you look at a defibrillator shock in under three minutes resulting in a 74% survival rate versus our current system, which allows us probably not as good as 3% to 5%, but in many communities 0%. To me, that's a dangerous path to take, when to correct it is so simple.

Mr Colle: Just one question about the training aspect. When training takes place in colleges, does the CPR training go hand in hand with defibrillation training?

Ms Simmons: We offer it as separate programs. At the moment, to my best knowledge, Humber College is the only college in Ontario running the defibrillation program. But we expect and in fact make it a prerequisite that they must have CPR training before they take the defibrillation training. So they'll come in with that knowledge and be expected to use it as part of the course.

Mr Colle: You would recommend, if the provincial government was involved in setting parameters or setting down guidelines for the use of defibrillators, that the training be combined, that they take both, that it basically be part of a package?

Ms Simmons: I think it's the only reasonable starting point, and I think it may be the best for the long run as well. I have a different perspective. Some of the speakers have been concerned about the safety aspects; I'm concerned about making sure we don't put a defibrillator into a building and say, "There it is on the wall. Use it when the situation arises," and everybody is so scared of it and of what can go wrong that nobody ever touches it.

Mr Colle: Yes. As you said about CPR, we're afraid to use it because we're not comfortable with it.

Thanks so much for your information.

The Chair: Thank you, Ms Simmons. We appreciate your comments.

ONTARIO PARAMEDIC ASSOCIATION

The Chair: I now wish to call forward the delegation from the Ontario Paramedic Association, if you wish to have a chair, and we would ask you to identify yourself for Hansard.

Mr Robert Burgess: My name is Rob Burgess. I'm the president of the Ontario Paramedic Association. I'm pleased and honoured to speak to you today on this matter. Having sat here for the last two or three presentations, I'm pleased to hear that there is a common thread that I'm going to re-emphasize. I'd like to speak to you today from the perspective of the paramedic.

Briefly, the Ontario Paramedic Association was formed in 1995 to represent paramedics in this province. In the few short years since its inception, the voluntary organization has grown to a membership of over 1,200 paramedics and 23 chapters throughout the province. The primary goal of the OPA and the membership is to promote professional issues like education, patient protection and safety, and to appeal for rigorous standards of practice. The OPA is also extremely interested in seeing advanced care paramedicine established as a benchmark throughout Ontario and continues to explore expanded scope-of-practice opportunities to creatively assist the patient population through community involvement. It's important to note that the OPA is not a labour body.

Paramedics are health professionals who practise controlled medical acts in many settings in Ontario. We work closely with emergency physicians, often by telephone patch, while administering life-saving care to a patient in the out-of-hospital environment. Paramedics are required to complete a two-year educational program at an Ontario community college to become a primary care paramedic. Primary care medics can defibrillate patients in cardiac arrest and administer medications to treat ailments such as chest pain and diabetes.

Following this, selected candidates apply to re-enter the educational process for one year to become advanced-care paramedics. This now allows the paramedic to provide advanced therapies such as intubation, intravenous initiation and medication administration, as well as emergency tracheotomy and chest thoracostomy in cases of a collapsed lung.

Our finest paramedics then continue their educational track to become critical-care medics. These practitioners can provide a vast array of medications and therapies as well as performing a number of surgical procedures. They are also responsible for monitoring critically ill or injured patients while performing inter-facility transfers.

Paramedics in Ontario work in ambulances and aircraft, in hospitals and research clinics, and are often found servicing special events.

1400

Now I would like you to join me on a call. I want you to be my honorary paramedic partner for the next few minutes.

We're dispatched to a busy shopping centre in the middle of the city during rush hour. It seems that a gentleman has collapsed while shopping for a toy for his granddaughter. I had to tug your heartstrings a bit. We race through the city streets, narrowly avoiding any obstacles. I've done this before, so you're not to worry. Why are we in such a hurry? It's time. Time is precious. As Tennessee Williams once noted, time is the longest distance between two places, and nowhere is this truer than in an ambulance on the way to a call. The fact is, time may have already run out.

We arrive at the mall and are met by a security guard who guides us up the escalator to the second floor. Suddenly an update comes across our portable radio: the patient is in cardiac arrest. Fire personnel have just arrived and are beginning to work on the patient. We continue our trek past bewildered shoppers oblivious to our presence. They don't pull to the right, either.

Finally, we are at the patient's side. The firefighters report that the patient is pulseless. They have defibrillated the patient once and are now doing CPR. I of course quickly intubate the patient while you attach our cardiac monitor and start an intravenous line. You're pretty slick. The monitor shows a flat line. That's not good. We give a number of drugs and aggressively treat this gentleman on the floor of the mall. Occasionally we take a breath, and I realize that the patient's daughter is standing nearby. I'm going to have to tell her soon.

I speak with our delegated physician at the base hospital. We give more drugs while moving the patient to the stretcher. Watch those lines, and don't lose the tube. All right, let's get going. The physician asks me to call her back once I'm in the ambulance. We walk past stores full of shoppers and I notice the fire hose mounted inside the glass case and think, "What if?" In the ambulance, I patch back to our physician. The patient is pronounced dead. I'll tell the family at the hospital.

Working a cardiac arrest is like coming up to bat in the bottom of the ninth inning with two out, no one on base, and you're down five runs. Those are the odds. Occasionally we win, and that, frankly, is remarkable. A ball club will employ any strategy that may help them win; so, then, should we.

The OPALS Study, which you've heard much about, conducted in various cities in the province, demonstrated that early access to defibrillation led to a significant

increase in patient survival. It suggested approximately 21 lives per year were saved, by the results of the study. It recommended that public access defibrillation programs be placed in centres with established EMS systems. Both the American Heart Association and the Heart and Stroke Foundation of Ontario strongly recommend that PAD programs be implemented as widely as possible. Bill 51 would do just that.

People in my business talk about the chain of survival. This chain identifies those elements that must be in place to afford a victim of cardiac arrest the best chance of survival. Interestingly, the first three links of the chain relate to the layperson and the first responder, and include early recognition of illness, calling 911, and doing CPR. The application of a defibrillator has recently been added to these early links. Conceptually, one may question the application of a medical skill by essentially non-medical people. I'll point out from the paramedic's perspective that this is not an issue, but it does require discussion about training standards and quality management. More about that in a minute, but first an historical perspective, and this is following up on what the previous speaker said.

CPR was a skill that only physicians could do as recently as the 1970s. The application of a defibrillator by ambulance attendants in Ontario was first explored in the mid-1980s. I'm not dating myself, but I happened to be one of those people. We used big, bulky units that required the operator to press the paddles against the chest, an image that was popularized by many TV shows about emergency care. These units also required the operator to interpret the heart rhythm and then decide if defibrillation was necessary. Obviously, this required training and skills that the average layperson would not have.

Fortunately, today's units are sleek and take much of the guesswork out of the procedure. The operator must know when to apply the unit and then simply follows instructions provided by the voice prompts. This doesn't mean that training is unnecessary, however. Paramedics across this province will generally be the first health care providers receiving patients who have been defibrillated by PAD providers. It is therefore important that I take a moment to discuss our related expectations.

Transferring care from PAD providers to paramedics must be as seamless and patient-friendly as possible. This means that protocols must exist to demonstrate when and how this should occur. This issue can take many forms, but in no instance is it as imperative as in the case where a patient is receiving defibrillation by the PAD providers when paramedics arrive. Similar protocols do exist now, however. Medics and firefighters have protocols indicating when the firefighter will transfer care to the paramedics at the scene of a cardiac arrest. These protocols should be consistent and followed in all PAD programs. This may seem trivial, but the process is critical from the patient's perspective.

Another issue related to the transfer of care is equipment. When the Ministry of Health deliberates about

guidelines and sets standards for these programs, it should consider the need to have standardized connectors for the defibrillation pads themselves. Each type of defibrillator has subtle differences, but the one similarity should be the method by which the pads are connected to the unit itself. This would allow the PAD provider to move care to the paramedics in a much quicker fashion, alleviating the need to remove one set of pads and putting another set on, which obviously can be time-consuming. This would also result in economies of scale and reduce the overall costs to the taxpayer. Universal connectors would certainly make the job of saving lives easier.

Training is another matter that needs clear direction and consistency of approach. Please consider for a moment one of the most famous movies ever, and one of my favourites, *The Dirty Dozen*. Although you've heard that save rates in casinos and jails are among the highest, I'm not implying that we round up a bunch of hardened criminals from death row and test our training programs. Instead, I always remember how the convicts in the movie were trained to do their task. It was repetitive, easy to understand and attempted to consider every contingency possible. Lee Marvin ensured that his troops knew the protocols in their sleep. Training someone to use a defibrillator is similar. It will be an infrequently used skill, therefore requiring a solid initial training program and ongoing maintenance plans to ensure competency when the time does arise to use it. Provider testing must be objective and strict enough to secure patient and provider safety. Further, it is imperative that these training programs describe the importance of basic skills like CPR and initiation of emergency medical services through programs like 911. Providers must understand their limitations and recognize the importance of their role on the team.

Quality review processes must also be considered within this initiative. Each case where a PAD provider was involved should be thoroughly and objectively reviewed. To do this, good data is integral. The Ministry of Health should make consistent and valuable data capture a priority. Data will also allow for improvements to be made in the system where necessary and provide us with a resource to describe program demographics and overall impact.

I've briefly spoken to standards of practice but now would like to expand on that thought. Practical, simple standards must be developed to ensure that all the aspects that make up a comprehensive PAD program exist and are maintained. I am an advocate of utilizing local and community expertise to assist with their development and application. EMS providers, along with the established network of base hospitals in this province, must lead this important program. This system has developed and maintained excellence in the delivery of pre-hospital medicine for people of this province and lends itself to doing the same for PAD programs. It is also imperative that paramedics are involved at every level. Obviously I offer the Ontario Paramedic Association as an organization that could assist you with the task at hand. Frankly, next to

the patient, paramedics are the group most affected by this bill.

In closing, I would like you to consider once again the call you and I did together. Think about the next time you are walking through a mall or train station or watching your favourite professional sports team. You may be in the middle of a large centre with an excellent EMS system, but look around and you'll realize just how far you are from life-saving care. Public access defibrillation will bring you closer.

The Chair: Thank you, Mr Burgess. We'll begin with the Liberals. I think we have about two and a half to three minutes each.

Mr Colle: Thank you very much for coming, Robert. I think you've given us a very real step-by-step example of what you go through. I was just thinking to myself, as you're rushing from place to place and trying to get to that person who has just had a cardiac arrest, what that must do in the pit of your stomach as paramedics try to get there. It must be very difficult to deal with on a daily basis.

One of the areas we were trying to explore and that you may have some feedback on is in terms of trying to get this technology available in rural and remote areas where there are distances for paramedics, never mind the obstacles you have in the city. Can you give us any insight in terms of the challenges in rural and remote areas of Ontario?

1410

Mr Burgess: Certainly you look at the commonalities that exist with large centres. If your goal is to place these units in areas that have large public gatherings, I think you can take the same sort of approach in any setting. It always will be a challenge to deal with rural Ontario with respect to early access to health care. A mall in any centre in Ontario is like a mall anywhere else; therefore this would help. The challenge of trying to get a defibrillator to somebody living on a farm in a remote area of Ontario isn't something I think this will help address, unless there is a trained PAD person on that farm. There was a quote once that said the best person to use a defibrillator is the person standing next to you.

Mrs McLeod: We've almost had a sense today that if you don't get there in eight minutes, there's not much point. I guess the concern I have with that is that I've looked at the response times in rural areas. There are many of them, not just in northern Ontario but in southern Ontario, where you're looking at 25 to 30 minutes plus. Is there any point in having a defibrillator on those first response teams, or should we concentrate on trying at least to get it into a mall where some people can be helped?

Mr Burgess: Certainly you can't ever know exactly what's happening on a call. In the example I used, if you recall, the crew received an update about halfway through the call that the patient was in cardiac arrest. Most times we don't know when the cardiac arrest occurred. It may occur as we walk through the door; it may have occurred hours beforehand. The whole objective

behind having multiple people trained in a skill like defibrillation is the shotgun approach to things, where you use an elephant gun to shoot a fly. The more you have, the more likely it is to be successful. However, I think if you look at the demographic you're trying to deal with, with this product, you've got otherwise healthy people in mass gatherings in large buildings and public buildings. Generally those people would be the ones who would probably benefit the most by having this at hand.

Mr Kormos: I liked your reference to The Dirty Dozen, except I realize that if you were to access jails to get a team like that, you would end up with some corrupt senators instead of hardened criminals.

It's interesting, with the Windsor group—I didn't learn until afterwards that the head of the program is a seconded firefighter, which is again similar to what you do. He's out there in front-line work.

When you talk about the involvement of paramedics in the planning and development in any given community or jurisdiction, I trust, then, you're going to this issue of seamlessness, because you're the guys who come in and pick up where a layperson like me may have started. Is that right?

Mr Burgess: Absolutely.

Mr Kormos: Don't forget, I come from small-town Ontario, real Ontario, not the intersection of Yonge and Bloor. So when small towns approach this, you're talking about building a team with paramedics, perhaps with firefighters, with all the people who have to pick up the pieces after the layperson—I wish we had more time. I wish we had more time with everybody, because I was interested in how Windsor initiated this, and this linear thing, because I was concerned about the fact that police cruisers and fire departments don't have these machines. That's why I appreciated your comment, because I was sort of getting left to hang out to dry on that issue. So you're saying that if I'm going to have a cardiac arrest, it may not be a matter of me being this, and then, boom. There could be any number of intervening things that happen that would cause somebody to call 911, for instance.

Mr Burgess: Correct. In fact, one of the things I think we should emphasize in any training program is to try to prevent this from happening. If somebody is having chest discomfort, they should try to seek medical advice and help as soon as possible. But you're absolutely right: we can't really predict at what point we'll enter with that patient. We hope it's sooner rather than later.

Mr Kormos: So firefighters and police cruisers have to have this equipment as well as having this equipment in public places or quasi-public places. The two things have to happen simultaneously.

Mr Burgess: I think the Heart and Stroke Foundation made the point—and I guess the AMA, the American Medical Association, as well—that frankly if your job means you could come across people who are ill, then, yes, you should be trained.

Mr Kormos: Good. I understand it better now than I did earlier.

The Chair: Mr Beaubien?

Mr Beaubien: Thank you for your presentation this afternoon. Mr Kormos thinks he comes from rural Ontario, a small town. He comes from midtown; I come from small-town Ontario.

Mr Kormos: I've got towns smaller than your town.

Mr Beaubien: When we look at the bill, it says under section 2, "Portable defibrillators shall be installed in a readily accessible and highly visible place," and it talks about buildings under the jurisdiction of the province of Ontario and municipal buildings, and then it talks about "Privately owned buildings to which the public has general access."

Research tells me that 75% to 80% of sudden cardiac arrests occur in the home. Then you mention in your presentation some resulting economies of scale to do some things and reduce the overall cost to the taxpayer. Taking that into consideration, all these buildings and that 75% to 80% of cardiac arrests occur in the home, I have yet to hear anybody here today tell me a costing issue. We're talking about a motherhood issue here. It's very difficult to speak against it. But nobody is giving the costs. If we were to put units in all these buildings and if we were going to catch the 75% to 80% where cardiac arrests occur, how much money are we going to spend? Like you said, the taxpayer is going to have to pay for it.

Mr Burgess: I'm not the expert in that area, and I'm not trying to be evasive in any way. But there certainly is a cost to anything that is worthwhile. From a conceptual perspective, I'd certainly point out that there isn't a room in the city that doesn't have the ability to put out a fire if it starts. If you look statistically at the number of fires that occur in shopping malls and public buildings, I think it would probably be a very low number. Yet I don't think any of us would deliberate on whether we want to remove the cost of having proper fire-suppression devices in any room.

I think you have to take a similar approach to this. When you make this decision, it really is an insurance policy that you buy. It's important to the person you use it on. Putting a value on a life is very difficult for me. My perspective is patient-care centred.

Mr Beaubien: Yes, but if I use the analogy you used, and you equate this to the fire protection we have in place, we're at a certain place or level with fire protection that has been developed over a period of 100 years. It did not occur overnight.

Mr Burgess: No, but this issue has probably occurred over hundreds of years too. We're now talking about a different level of provider using a device that has been in place for a number of years. It goes back to the 1960s and probably before that. I'm not a medical history expert, but certainly this is an issue that has had decades of development.

Mr Beaubien: You've heard different presenters suggest there is some danger in using that equipment and that there are certainly some benefits. As a paramedic, how do you react to that?

Mr Burgess: You have to teach anyone who is going to use any piece of equipment respect. Frankly, I would feel much more comfortable teaching my son, who is 10 years old, to use this device rather than my chainsaw.

Mr Beaubien: So you feel that training is the key issue?

Mr Burgess: Absolutely.

The Chair: Mrs McLeod, quickly.

Mrs McLeod: To legislative research, actually, while the next speaker is coming forward. I think Mr Beaubien's question is one this committee should give some thought to. I'm wondering, would it be unfair to ask research if it's possible—I know we've got some initial studies that show, and we'll probably have to use Windsor, the number of lives saved over a given period of time. If you just took the Windsor casino study, looked at the cost of putting in the defibrillators and the number of lives saved in the lifespan of the defibrillator, which we've heard now is seven to 10 years, I think, and compared that with some other measure—for example, the cost of a heart transplant—is that an unfair research task?

Ms Elaine Campbell: I'll look into it.

Mrs McLeod: Thank you. I think there's a relevance to that. Something new strikes us as being very costly on an individual basis, but we spend a lot of money saving individual lives in our health care system.

1420

HEARTSAFE EMERGENCY MEDICAL SOLUTIONS

The Chair: I now call forward our next delegation, representatives from Heartsafe. Good afternoon. Have a chair, and we ask if you would please identify yourselves for the committee.

Mr Blake Hurst: My name is Blake Hurst, corporate director of marketing for Heartsafe Emergency Medical Solutions.

Mr Glenn Burke: My name is Glenn Burke, president and director of education for Heartsafe Emergency Medical Solutions.

Mr Hurst: Chair and committee members, thank you for allowing us to share our thoughts on Bill 51, the Portable Heart Defibrillator Act. We'd also like to thank Mr Colle for the work he has done in bringing the act to this stage. He has spoken out on behalf of public access defibrillation at a number of functions we've attended, and his support for public access defibrillation has been more than commendable.

I'll tell you a little bit about our company and the perspective we hope to bring to this afternoon's discussion. Heartsafe Emergency Medical Solutions is a private sector company that provides first aid, CPR and defibrillator training and equipment. Our programs are approved by the Workplace Safety and Insurance Board, Health Canada and the Ministry of Health. All of our training is provided by paramedics.

So we go into the workplace, we do first aid training, CPR training, AED training for our clients, and the people delivering the training are paramedics who for the most part work for ambulance services in the province of Ontario.

We hope to be able to bring two perspectives to this afternoon's discussion: one of a private-sector program delivery agency and the other perspective that we hope to be able to bring to this discussion is that of our clients. I'm going to talk a little bit about our clients because I want all the members of the committee to understand the breadth and the variation in the types of clients that we're working with and the organizations across the province that have already implemented defibrillation programs because they've looked at defibrillation and determined that it's the right thing to do for their employees, their guests and the people who use their facilities.

We've also kind of done some straw polls with our clients and our prospective clients over the last few weeks leading up to this presentation to make sure that if they had any important messages that they wanted to share with the committee, that they would be able to relay them through Glenn and myself.

We work with Clublink Corp at all their private golf clubs. We also work with the National Golf Course Owners Association, many public and private clubs across Ontario. We work with Cadillac Fairview Corp and have installations at many of their shopping malls and office towers across the province, including Intercity shopping mall in Thunder Bay, Georgian Mall in Barrie and the Toronto Eaton Centre. We work with large property management companies like Olympia and York at the Scotia Plaza. We're at the TD and BCE Place. We're working with fitness clubs like the Mayfair fitness clubs. The House of Commons and the Senate of Canada are groups that we work with, and we have equipment and trained personnel at both those venues. We work with fire departments from Algoma right through to Perth—large and small fire departments—on both the equipment and the training side. We have implemented programs at the Ontario Police College and we are in discussions with several police services across the province, including the Ontario Provincial Police, at a number of levels. So we believe that we bring a breadth of experience to today's discussion.

We want to use the time today to talk about two issues, things that keep coming up over and over again. The first is that we would hope that in its final form, Bill 51 and any regulations that are attached to Bill 51 by the Ministry of Health and Long-Term Care encourage the deployment of AEDs into our communities. I guess the opposite of that would be discourage, and we'll talk about that a little bit.

So we want legislation that encourages AEDs in our community for the stated goal of achieving rapid defibrillation. I think that the way the bill sits rights now, it comes very close to that, although we have concerns about what regulations may be attached.

The second thing that we would hope, and would ask, is that Bill 51 and its attachments be the definitive and singular set of rules and regulations, policies and procedures for public access defibrillation in Ontario.

One of the concerns that we come up against in this area is that there are currently a number of municipalities that are looking at passing bylaws and that is, just really quickly to state, organizations like the delegation we heard from Windsor. The work they're doing is absolutely excellent. We just hope that everything can mesh together in one set of regulations that everyone in Ontario can follow.

So just quickly I'll go back to the first issue of encouraging public access defibrillation, as opposed to getting into an over-regulatory situation that would actually discourage private sector companies and even certain public entities from putting defibrillation programs into their facilities. These machines are easy to use. They are intuitively obvious to operate. I know that as lawmakers, you have to balance out policies that protect the public versus poorly thought out or poorly planned policies that actually endanger the public, and Ms Molinari has been very diligent this afternoon in ensuring that her mind is at ease with the danger side of things. I think that's a valuable discussion, but the machines are intuitively easy to operate. The technology has been validated.

Without asking the committee to take anything on face value, I believe we can look to the Food and Drug Administration in the United States and Health Canada as agencies that have thoroughly vetted the public access defibrillation machines that are currently available on the market. We wouldn't be here today talking about PAD if those agencies were not convinced in their minds and their hearts that these machines were safe to use by lay responders. So again, I wouldn't say take it on face value that Health Canada has done its homework, but perhaps as a research issue you could look into what Health Canada says about the public access defibrillators that are currently available. I know they are convinced that these machines are safe and effective for use by lay responders.

Training is absolutely important. We have never corporately and we would never suggest to anyone that they purchase a defibrillator and put it into a facility or on to a property without appropriate training. At the same time, we hope that training doesn't become a burden. Many of our corporate clients have gone out of their way to make time for key employees who are involved in their corporate first-response team to receive CPR and defibrillation training so that they can use the equipment safely and effectively. At the same time, we know that if they are told by law that these employees have to take two- or three-hour refresher courses every 90 days or 180 days—and we've heard some of these numbers thrown around—that would then become a barrier for them putting defibrillators on to their properties. "How often do we have to pull our guys out of work or our team out of work to recertify or retrain on the equipment?"

So we would encourage that the committee look at and later on that the civil servants at the Ministry of Health

and Long-Term Care look at the guidelines established by the American Heart Association and the Heart and Stroke Foundation of Canada and use those guidelines as guidelines that we can all live by. These guidelines have been internationally accepted. We believe that for the most part they address most of the contingencies that arise when using an automated external defibrillator, and we try to develop our training protocols in conjunction with those guidelines. The other organization whose guidelines we incorporate into our training is the Provincial Base Hospital Advisory Group. This is a group of doctors and paramedics who have put a lot of thought into public access defibrillation, and their recommendations are certainly integral to a successful program. We encourage guidelines that companies can live with on the training side.

Rob spoke very well previous to me. One thing that he brought up was compatibility. That's an issue we're not totally comfortable with, because trying to achieve compatibility could actually create barriers to putting defibrillators into the community. If the machine that a Cadillac Fairview shopping mall has is not exactly compatible with the machine that's being carried by the local ambulance, that could be a barrier. We don't believe that barrier should exist. If you want to ask me a question about that later, feel free, but the bottom line on that one is that we want to encourage people to have machines on their properties that are approved for sale in Canada by Health Canada.

So that's our discussion on barriers and on regulations that are simple and easy to follow. We believe they've already been created; they don't need to be re-created. Organizations around the world have put out excellent guidelines on public access defibrillation.

The second issue that we wanted to talk about, and I'll be very brief on this one, is that we would want to see Bill 51 and any regulations attached to it be the definitive legislation for public access defibrillation in the province of Ontario. Currently, there are municipalities considering bylaws. We think it would be a barrier to putting more defibrillators into our community if organizations had two, three or 14 sets of rules that they had to live by. When we look at a company like Cadillac Fairview, which has taken on an excellent and commendable corporate initiative to put defibrillators on all their properties, if they have a set of rules they have to follow in Kingston and a set in Toronto and a set in Windsor and a set in Thunder Bay—I think you see where I'm going with this—it becomes a barrier to Cadillac Fairview putting defibrillators on all their properties. If they transfer people from one mall to another, the skill set can be transferable if we have one set of regulations for the province. Again, I think we can look to the Heart and Stroke Foundation and the Provincial Base Hospital Advisory Group to help us shape those regulations, but we would hope that Bill 51 is the definitive piece of legislation in the province.

Just in closing, we would like to state our support for Bill 51. We think it's an excellent piece of legislation and

we hope that when the final tune-up is done and the regulations are attached to it that it is a document that will encourage organizations in Ontario to put automated external defibrillators on their properties.

1430

The Chair: Thank you, sir. Comments, beginning with the NDP. We have a little over two minutes each.

Mr Kormos: Let's talk about the compatibility issue, because I was impressed by what was said and by the rationale for it. It seems to me he's talking about connectors, he's talking about consistency, let's say, in power supply so you don't have a—I don't know what they are, but you don't have a six-volt machine versus a nine-volt machine. I presume it's as simple as that, because this is complex stuff. It's like RCA connectors versus DIN. Do you know what I mean?

Mr Hurst: Absolutely.

Mr Kormos: Doesn't it come down to something that simple? We're not talking about the guts of the machine, are we?

Mr Hurst: No, not at all.

Mr Kormos: Then why can't we talk about compatibility, at least compatibility municipality to municipality, so that when my EMS down in Niagara uses a certain type—so that the places that have these defibrillators are compatible, not necessarily between Niagara paramedics and Toronto, but certainly within Niagara? What's wrong with that?

Mr Hurst: There are probably about three or four reasons. Number one might be different capital acquisition schedules, so that I buy a machine this year and then the local EMS re-equips itself two years from now and then the local emergency room re-equips itself two years after that, and I've just bought a \$5,000 machine for my golf course and I've been told that it will be valid technology for a decade, and then four years down the road I find out that my local EMS has bought all new machines and they're now recommending that I buy a new machine.

Mr Kormos: But again, I'd have to know how these things are built and whether it is similar to an RCA jack versus a DIN jack.

Mr Hurst: I think another issue is just best-practices paramedicine. Do you actually want to inherit pads that were placed by a lay responder? You're a professional paramedic and perhaps it's most appropriate that when you arrive on the scene, when it is appropriate to transfer the care of the patient from the lay responder to the paramedic, that the paramedic take off the pads placed by the lay responder and put pads that they've taken from a known and trusted source on to the patient, ensuring that the pads are placed absolutely properly. Perhaps the lay responder didn't place the pad over an implantable defibrillator or didn't properly shave the patient's chest. So in taking full responsibility for the care of the patient, they start by placing their own pads on to the patient.

Mr Kormos: I understand what you're saying. You've got to understand, Frank Sheehan and I are on opposite ends of the spectrum.

Mr Hurst: It's just a thought on compatibility.

Mrs Molinari: Thank you very much for your presentation. You've obviously been here for most of the morning and listened to the other presenters and are very observant. My whole concern around this issue, of course, is life saving, and that is what we would all like to do. You touched on a couple of things, and Mr Kormos talked about the compatibility. That was going to be something I wanted some clarification on. As we go through the process with presenters, every presenter brings a whole new view and a new issue and other things for us to consider. So I'm not going to ask you to again address the compatibility, but you also talked about regulations and the importance of the regulations being the same throughout. What would you see would be necessary in regulations to address the concerns you have raised with some disparity in a variety of regulations in various municipalities rather than province-wide?

Mr Hurst: I think just to move quickly to adopt something that is based on a compilation of the Heart and Stroke Foundation guidelines and the Provincial Base Hospital Advisory Group guidelines. I think the appropriate guidelines and regulations already exist. I guess my fear would be that people try to add to them or put licensing fees and certification, and if your wallet card doesn't say that you've retested in the last 180 days, it's illegal for you to use the defibrillator. Those are the kinds of regulations that we would worry might come into existence and create barriers to defibrillation.

I reiterate that we encourage responsible training programs. I heard a person in a position of authority suggest the other day that if your wallet card was expired, it was against the law for you to defibrillate someone in the province of Ontario, and this was a person who should know better. In fact, it's actually legal for anyone in this room to defibrillate anyone else in this room right now if one of us were to drop to the ground, vital signs absent. Fortunately, Dr Verbeek's here, so the rest of us may not have to act so quickly.

Mrs Molinari: Your comments on encouraging public access—and certainly you had something—that what you want to do is encourage its use, and for that to happen and for it to be safe, the training that is involved and certainly based on your credentials, that is what you do.

Now, in having them in public places and having individuals have access to them, some presenters talked about having a group of people who would be specifically trained, and these would be the people who would be using the defibrillator. There may be varying times where in some places they're used often, in other places possibly never used, and then there's the whole factor of the updating of the battery and all of those things that are necessary to be looked at so that it's in a working state all the time. The training as well, then, would have to be ongoing. I would like you to comment on that. For someone who receives the training but never actually puts that training into practice for an extended period of time, would there not be a need to have ongoing training, a refresher on how to administer? If there were to be

changes in the—not changes in the actual defibrillator. If you've got that once, certain use, and that's just the way you would use it.

But the other thought that comes to mind is the whole thought of the confidence level of the individual using it, and the fear factor and the panic factor that may come in. "Gee, I was trained in this about eight months or a year ago, and now here I have to use it, and I'm not sure I remember everything." Can you comment on that?

Mr Burke: Certainly in any type of emergency medical training environment, the fear factor is probably the largest obstacle that we have to overcome as facilitators. When we train people in CPR and defibrillation, the big challenge is not so much teaching them how to use a defibrillator; it's teaching them how to do CPR, which is something we've been teaching in the public for 25 years. We still haven't got it to a point where it just rolls off the tongue and the hands and the lips of the people we teach it to.

Certainly as a minimum, people should have a structured CPR and defibrillation course. It probably should be in the length of six to eight hours in their initial program, and then as a minimum to that, they should recertify annually for sure, no doubt, CPR and defibrillation. Then you have to ask yourself, well, in between day one and the one-year recertification, how often will we expect this corporate person, this shopping mall to pull all the people out of work to recertify before it becomes cumbersome and a barrier? So typically now we recommend that at least at the six-month mark they do a two-hour refresher, and then we recertify them on a yearly basis. If they're using the defibrillator more frequently, then they should probably recertify more frequently.

The Chair: I'll go to the Liberals.

Mr Colle: Thank you very much, Glenn and Blake. If I look at this list of clients you mentioned, ClubLink, Cadillac Fairview, Olympia and York, they're pretty reputable international corporations. So why would they spend this money, make this effort to train staff, to buy the defibrillators, and the majority of other shopping malls or some private golf courses? I understand almost every golf course is probably going to have them. Why would the others not, and why would Cadillac Fairview and ClubLink etc make this investment?

Mr Hurst: I think it's just leaders and followers. In every industry there are leaders and there are followers. Cadillac Fairview and ClubLink, to use two examples, are progressive organizations; they're best-practices organizations; they believed it was the right thing to do; and they got their head around the legal issues. They realized that when a person has vital signs absent, no first aid intervention can make that person any sicker than they already are. The only thing you can do with a defibrillator is make a person better or leave them in the condition you found them, which is dead.

So from a legal standpoint, they were comfortable with the fact that they couldn't be sued or there was no liability attached. Perhaps a little bit, some of them maybe saw that there might be a standard-of-care issue

going the other way where they may be mitigating liability by putting the defibrillator on their property and avoiding the situation where a family survivor said, "You should have had a defibrillator at your shopping mall," or on your golf course. But I think the overriding issue is that these are best-practices, forward-thinking organizations. There are many organizations waiting for Bill 51, and they have told us that.

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Mr Colle: I found one of the blockages is this fear of liability. They call up their insurance agency and they look at it for two or three days and say, "I wouldn't do it." Is that what this legislation can basically mitigate, that advice from their insurance company and their lawyer that says you may have liability? In fact, haven't you found that there is growing liability on the other side if you don't have—

Mr Hurst: Absolutely. But to get 100% corporate buy-in—and this also goes back to Mr Beaubien's issue of cost. I think a lot of the cost of putting more defibrillators into our community will be borne by the private sector. I don't think Cadillac Fairview should get a nickel for putting defibrillators on their property. They've got enough money that they can buy their own defibrillators. Asking Club Links and most private golf courses—there are a lot of entities in our communities that can buy their own defibrillators. There are also a lot of community organizations that will pony up money for defibrillators in the community. I guess ultimately in one sense it's a fundraiser that comes from the taxpayer, but it's not direct tax dollars from the government of Ontario.

We can put a lot of defibrillators into Ontario communities just by passing Bill 51. It has the Good Samaritan clauses in it, and that is the reassurance that so many people and organizations are looking for. Companies like ours, or organizations like the group from Windsor, have already spoken to these companies, and many of them are just waiting for Bill 51 and that good Samaritan protection to give them the final level of comfort they need to go forward.

Mr Colle: And the liability protection they need, that the premises aren't liable because they've put the defibrillator onsite.

Mr Hurst: Absolutely.

The Chair: Thank you, gentlemen, for your input.

RICHARD VERBEEK

The Chair: I wish to call forward our next delegation, provincial base hospitals. Good afternoon, sir. Have a seat. I'll ask you to identify yourself for the committee.

Dr Richard Verbeek: My name is Richard Verbeek from the division of prehospital care of Sunnybrook and Women's College Health Sciences Centre. Mr Chair and members of the committee, I certainly appreciate the opportunity to provide my views on Bill 51. Before I proceed, I'd like to review some of my credentials and background which I feel make me an appropriate person to be presenting to you today.

I work as an emergency physician at Sunnybrook and Women's College Health Sciences Centre and, in particular, I'm a representative of the Provincial Base Hospital Advisory Group for Public Access Defibrillation. Many of my comments will be from that perspective today.

Additionally, I act as the medical director for the Toronto Emergency Medical Services and the Toronto fire service automated defibrillation programs. I'm the medical director for the city of Toronto public access defibrillation program and a member of the Heart and Stroke Foundation's advisory committee on automated external defibrillation. Lastly, I'm a contributing author to the Canadian Association of Emergency Physicians' position statement on public access defibrillation, which is currently in press and will be published in the September issue of the Canadian Journal of Emergency Medicine.

The premise of public access defibrillation is that early defibrillation saves lives, ergo earlier defibrillation will save more lives. We know that even in highly functioning EMS systems, there is a limited ability to provide defibrillation early enough to save most victims in cardiac arrest, such that the North American survival rate for most out-of-hospital victims of cardiac arrest is less than 5%. That's certainly the experience in Toronto and the province of Ontario. We also know that lay responders trained in automated external defibrillation could save more lives by responding more quickly to cardiac arrest than can be achieved by many EMS systems.

The epidemiology of community cardiac arrest is such that there really are few community cardiac arrests that occur in a public place that are amenable to public access defibrillation. In Ontario, that's approximately 15%, and that really does mirror the experience that has been published from a North American perspective. We also know that there is a dearth of high-risk public locations for community cardiac arrest outside of a few well-described sites such as casinos, sports complexes, shopping malls, large airports, shelters and community senior centres.

So what's the North American experience with public access defibrillation? We do know that in well-designed programs, mainly in casinos and perhaps using air flight attendants, we can achieve survival rates of cardiac arrest that approach, and in fact in some cases surpass, 50%. There is no other development within the world of medicine in the last 50 years that has achieved such a remarkable improvement in survival rates from cardiac arrest or any other serious, life-threatening illness. However, this experience has only been reported based on 179 cases, so clearly more experience must be reported before we can be comfortable with the 50% level. What we do know, though, is that the success of each and every single program relied on formal program structure, physician direction and training of targeted lay responders.

So what is the current status of public access defibrillation in Ontario today? There is no overseeing authority, there's no structure, there are no formal training requirements, there are no directions, regulations,

guidelines or standards, there is no formal requirement for physician direction, there's no requirement to even notify EMS systems of the existence of a PAD program, and there certainly is no evaluation process.

Compare the state in Ontario today to this soon-to-be-published position statement of the Canadian Association of Emergency Physicians, which is on page 7 of your handout. In particular, I refer to items 3 through 7, which, in an abbreviated format, would say that PAD programs should meet specific guidelines that are created by recognized provincial or national emergency cardiac care organizations, that PAD programs should be coordinated with local, regional or provincial EMS authorities, mainly to ensure compatibility of transfer-of-care protocols and that AEDs are registered with the local EMS authority, and that in fact there is a specific written, on-site emergency response plan for every PAD program.

Secondly, this association recommends that physician direction is required to oversee the development and authorization of PAD program elements. In fact, the provincial base hospital advisory group took the initiative over two years ago, when we did publish a set of guidelines that was alluded to by the previous presenter.

Most important perhaps is item number 7, which in total states that within PAD, the principle of the continuity of EMS patient care must be maintained to ensure that once 911 is called, every patient treated under a public access defibrillation program becomes the responsibility of EMS personnel, the EMS system and the EMS system's medical directives.

Public access defibrillation in Ontario is currently a rudderless ship. It's the antithesis of proven, effective, life-saving public access defibrillation programs. For these programs to make a meaningful contribution to lay responder treatment of out-of-hospital cardiac arrests, appropriate legislation is required to correct all of the deficiencies I've outlined.

How does Bill 51 measure up? I'd like to review Bill 51 in the context of my preceding comments. With respect to section 2, will the installation of portable defibrillators in buildings under the jurisdiction of the province of Ontario save lives? I would say that would rarely be the case. Government buildings have never been identified as high-risk areas for cardiac arrest. However, this action would certainly serve as a leadership example for the rest of the province and I think would start the ball rolling for widespread development of public access defibrillation in perhaps more important sites. It's not that I don't want to save politicians; it's just that politicians seldom seem to die on the job.

Will the installation of portable defibrillators in municipal and private buildings to which the general public has access save lives? Almost certainly, if they're chosen properly. But clearly it's not feasible, as some of the members of the committee have indicated, to install defibrillators in every building of the province. That's where expert advice is required.

Section 3 indicates the Ministry of Health is required to develop and publish certain guidelines. This is where I

have my first key recommendation for the committee to consider. I believe Bill 51 must establish an appropriate authority to oversee the development of these guidelines, training programs and protocols. This authority must provide province-wide medical expertise on the coordination of public access defibrillation programs with emergency medical systems. I also believe that a logical choice for this authority lies within the Ontario base hospital program.

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As an organization, we are recognized as the source of medical expertise for out-of-hospital care, ensuring that the citizens of Ontario receive the best possible patient care. Our task is to work at the provincial and municipal levels to ensure consistent, seamless, accessible, integrated and, perhaps most importantly, accountable out-of-hospital care. Our mission statement is, "We are the centre of excellence ensuring the provision of optimal out-of-hospital care through leadership and medical direction in a collaborative and cost-effective manner."

The base hospital vision statement is, "To be the source of medical expertise for out-of-hospital care, ensuring every citizen"—of Ontario—"receives the best patient care possible." Our values include those related to quality patient care, partnerships with all our EMS partners at the provincial and municipal levels, continuous quality improvement and continuous program development to ensure that we continue to deliver the best possible out-of-hospital care.

Therefore, my second key recommendation as we proceed is that Bill 51 must establish working rules to guide this designated authority. Although there are no Canadian examples of this of which I am aware, almost all states in the US have enacted PAD legislation that includes such working rules. I've included an example of those working rules in appendix 2, which is page 9. This happens to be an abstract from the Montana House, Bill 126. It was passed in 1999.

I won't go through them in detail, but I hope that as members of the committee you will take time to review them. You will see that they certainly establish an appropriate framework for the development of integrated, compatible public access defibrillation across Ontario. Certainly, and independently, the Canadian Association of Emergency Physicians has come up with its own position statement, which mirrors these guidelines very closely. I would add that these guidelines were developed independently and there was certainly no knowledge of this bill when these guidelines were initially worked on three or four years ago.

Regarding section 4 of Bill 51, perhaps some specifics regarding liability. This bill is fairly weak in that aspect. I agree that liability issues must be addressed; however, liability should include the agency that provides training, the involved medical director and the agency that purchases the defibrillator.

Lastly, from a physician's perspective—I'm surprised that Mike Colle didn't ask my opinion on this when he was developing this bill—the definition of a perceived

medical emergency is inappropriate. This definition really should be limited to the belief that a person in need of assistance is experiencing a cardiac arrest rather than a life-threatening medical condition. There are many life-threatening medical conditions for which it would be completely inappropriate to apply a defibrillator in any sense of the word. I wouldn't want to see legislation proceed where there is, within a bill, legislated permission to be attaching these defibrillators to a number of patients, which would be inappropriate.

I'd like to conclude my comments with compliments to MPP Mike Colle for all the work he has done in developing this bill. I think it's the right thing for Ontario. Public access defibrillation is going to occur in Ontario whether you like it or not. As you've heard today, it is in many places in Ontario. At the current time there is no way these programs can be controlled or evaluated, and I think this is a wonderful opportunity for the government of Ontario to take leadership in this area.

The Chair: Thank you. Comments? Mr Beaubien—about one minute.

Mr Beaubien: I want to make it very quick. Dr Verbeek, thank you very much for your presentation. I think it's very enlightening. First of all, I think we all realize this is a motherhood issue. As I pointed out before, it's pretty difficult to speak against it. However, I think you pointed out what I was trying to question some of the previous presenters about. There has been no costing. There has been no authority looking at where we're going to put this, how we're going to train people, where this should be. One of the presenters alluded to fire departments, that we do have hoses in public buildings. I agree, but there was a gradual process through the building code that we've implemented certain fire prevention issues over the years.

I don't really have a question. The other comment I would like to make is that maybe there are a few too many regulations you wish to see in this bill, but I think your presentation was very well thought out.

Mr Colle: Thank you, Doctor. Just remember, when I talk about provincial government buildings, I'm talking about places like courthouses and the Ministry of Transportation. We're not only talking about politicians, who are few in number; we're talking about the workers and the visitors in those buildings, as Justice Harris said.

I would just like to ask, in terms of your last comment that it's going to happen anyway, if this government and the members of the Legislature—because this is a private member's bill—decide not to do anything and let this rudderless ship, as you say, continue, what is the downside of that?

Dr Verbeek: I guess the downside is some of the comments I alluded to earlier, in the sense that we would really have no way of monitoring the progress of public access defibrillation.

One of the things I've learned in my capacity as medical director for many defibrillation programs is that the transfer of care of the patient from the time they have a cardiac arrest to the time they arrive in an emergency

department has to be reasonably well organized, reasonably well orchestrated and to some extent seamless. The situation we often face right now in public access defibrillation is that there are a lot of providers out there who are not sure what their roles and responsibilities are. We have had instances where there have been, shall I say, difficulties with firefighters and paramedics actually being able to assume care from providers who feel some ownership of the patient, to the point where perhaps there has been detriment to the outcome of the resuscitation.

We are facing a situation where there are a lot of tails out there that to some extent are in a position to wag the dog. That's why the comment about the integrity of the transfer of care of a patient from a lay responder to an EMS system, and that patient becoming the responsibility of the EMS system, is so important. We have no ability to accomplish that within the current framework of public access defibrillation in Ontario right now.

The Chair: Mr Kormos, one minute.

Mr Kormos: There was a good example this morning. Maybe it got itself on a bit of a wrong track because it was the profile of a healthy 33-year-old woman with no previous disease. In other words, she wasn't old and didn't fit any clear profile, and she had fibrillation. You are suggesting that you can create profiles in the course of analyzing where you prioritize putting defibrillation equipment. If you had to prioritize, are you suggesting that my seniors' clubs in Thorold or Welland, for instance, are more appropriate places to put these? Because you're dealing with mature people or seniors, is that a more appropriate place than, let's say, some other place, or are you talking about the size of the venue or the number of people who travel through it?

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Dr Verbeek: There is an epidemiology behind all this. Cardiac arrests occur at a fairly predictable rate within a community. I can tell you that in Toronto we see approximately 1,800 cardiac arrests per year. It seldom, over the course of a year, varies by more than 100, in a population of 2.6 million.

So we can reasonably define for a site, based on the profile of the public that either lives there or attends there, what the expected rate of cardiac arrest is. There are formulas that exist. From that, the recommendation of the American Heart Association is that a defibrillator be placed in an area where you might expect a cardiac arrest at least once every five years. That's the importance of having medical expertise and medical input into the development of public access defibrillation, because we understand the nature of the beast and we're in a position of being able to provide leadership on that issue.

The Chair: Thank you, Dr Verbeek.

ST JOHN AMBULANCE COUNCIL FOR ONTARIO

The Chair: Our next delegation scheduled is St John Ambulance, Ontario Council. I'd ask the delegation to come forward. Good afternoon, sir. If you could identify

yourself for the committee and then proceed with your deputation.

Mr Philip Griffiths: My name is Philip Griffiths, and I am the director of sales, marketing and training for St John Ambulance, Ontario Council. So we're responsible under the Priory of Canada for the province of Ontario.

I'm here today just to say a couple of words. I believe that some of my peers most likely have been here this morning, and most likely you'll see them again tomorrow, so I thought I would keep my comments to you quite brief and perhaps come from a little bit of a different angle.

My job at St John Ambulance is actually on the business side. I have people who work for me who I would consider to be my content managers in the area of AED. But primarily my responsibility in the organization is to drive the revenue on the business side of St John Ambulance, which is indeed a not-for-profit organization. If you're not aware, it's our business side that generates the revenue that allows us to perform our community service events.

St John Ambulance has approximately 2,000 first aid instructors in Ontario. Our market share is approximately 65% of first aid training in Ontario.

I thought what I would do today is just overview some specific points in regard to the bill that I had met with some of my peers and discussed, without going into great detail, understanding that some of our other partner organizations like the Heart and Stroke Foundation would be presenting to you and perhaps be going into greater detail on the medical side.

First and foremost, we'd like to say that St John Ambulance fully supports the objective of the bill and also that St John Ambulance recognizes the use of an AED is currently considered a controlled medical act under the Regulated Health Professions Act, 1991, sections 27 and 29.

St John Ambulance recommends use of an AED be amended to a form of a first aid act. That has been done, for example, in Alberta and Nova Scotia.

We feel that this deregulation, much like CPR a number of years ago, will promote the widespread availability and use of AEDs in Ontario. We have some further basic recommendations:

Section 2 of the bill states, "Defibrillators shall be installed in a readily accessible and highly visible place in the following locations." St John Ambulance recommends the inclusion of specific workplaces, such as large office towers or industrial sites.

Subsection 3(3) states, "The ministry shall develop a training program and protocol in the appropriate use of ... defibrillators in conjunction with stakeholders that provide emergency services." St John Ambulance recommends that the ministry take into account the existing co-operative work between the Heart and Stroke Foundation, St John Ambulance and other providers. St John Ambulance already has in place an extensive AED training protocol. The ministry should look to adopt this

training curriculum to avoid repetition and cost duplication.

I just wanted to point out that in regard to the delivery of the training for AEDs somewhere in the future, I think the committee should feel very confident in the fact that St John Ambulance, with 65% of the training market share, has 59 training centres located throughout Ontario.

We are indeed covered by a medical director. We are under the supervision of a medical director. The liability for all AED training is not covered by the St John Ambulance liability but indeed is covered by our medical director, Dr Edward Wasser.

In closing, those are about all the comments that we had today.

The Acting Chair (Mr John Hastings): Thank you, Mr Griffiths. We have some questions, probably. We'll start this time with the Grits.

Mr Colle: Thank you, Mr Griffiths, for being here on behalf of St John Ambulance, certainly a well-respected provider of first aid in this province, and for your work over the years in providing support at community events. It goes without saying that's much appreciated and not recognized enough, I'm sure.

In terms of some of your recommendations, I do appreciate those recommendations and I think the committee will look at those, because the committee, certainly speaking for myself, is very interested in getting these kinds of suggestions. This bill is open to input and interpretation, based on the input we get from professionals like yourself. So I think those are two very good recommendations that I've seen right off the bat.

In terms of your reliability, you talk about St John Ambulance and the trainers. What about the equipment providers? Is that covered through the medical providers' liability?

Mr Griffiths: That is a very good question, and I do not have the answer to that. However, I can get the answer for that to you by tomorrow. I did come in here today thinking that part of my responses would be the ability to answer on another day, as I don't have one of my content experts.

Mr Colle: I was just thinking of that.

Mr Griffiths: It's a very good question.

Mr Colle: It's one way for organizations like yours to get that kind of liability protection, and as was raised here today, the provider of the training equipment, how do they get protected? And the facility that perhaps employs that trained individual, what is their liability protection? I was just wondering.

My colleague would like to continue for a second.

Mrs McLeod: You mentioned the reference to the controlled act and the need to have an amendment that would make it a first aid act. I gather there is some controversy or uncertainty in Ontario as to whether in fact defibrillation is a controlled act. I understand St John Ambulance has determined that from your perspective it's a controlled act, so that you would not have your volunteers doing defibrillation now. Is that correct?

Mr Griffiths: From talking with the medical people in our business, anecdotally what I'm being told—and again, I've only been in this industry a couple of months; my background is in business—is that this kind of approach to a delivery of public first aid training is not new. Apparently the same kinds of things happened years ago with CPR, almost under the exact same conditions, where it was felt that it needed a lot of medical supervision and things like that. I've been told by my experts that you see the results today, that CPR is widely available and taught to the average person in public. We feel that the exact same situation could occur with AED.

Our current situation is that we have two kinds of certifications under which we train. We have what is called a non-certification class. What happens there is it's the same amount of hours and it's actually the same training course, but at the end of it the individual is not actually allowed to use an AED machine. They're not certified to use it and therefore not covered under the liability of our medical director. The other course is a certified course whereby they are allowed to use the AED. As I understand, to be able to take that course they have to be supported by their workplace. They have to be nominated to be that person who would be responsible for using that particular AED unit. We see in the future—perhaps to a certain extent it's simply a question of demographics—that as the age cohort between 50 and 75 increases in numbers, common sense dictates we are going to have more cardiac events, and what we're recommending therefore is this kind of training should be made available to the public in general.

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Mr Kormos: Further on that whole business of who is going to use these machines to administer defibrillation—I've got to check with these folks later because maybe I'm wrong—I'm hearing some people say it should be trained people, however modestly trained, who are permanently in that place, to wit, people who are on staff in the mall or what have you. And I hear from other people that, again, in a worst-case scenario, they don't care who it is as long as it's somebody who can read the instructions or follow the diagram and listen to the messages on the machine telling you how to do it. I guess, what the heck, you've got little alternative. What are you saying? Are you suggesting that only people who have at least a modest level of training should enjoy the liability immunity?

Mr Griffiths: No, I think what we're saying is that in the end, the more AEDs you have out in the public and the more individuals who are trained on the unit, the more chance that, if you or I have a heart attack somewhere, somebody will actually see the unit, recognize the unit and be able to use it.

One of the things we face in regular first aid training—and perhaps some of you have experienced this in the past, but we're seeing it evident. A standard first aid course or an emergency first aid course that's common, regulated by WSIB, is either eight hours or 16 hours in length. That doesn't necessarily mean that the person

who has taken that training is actually going to have the confidence to be able to use it, quite frankly. It's one thing to have received AED training; it's another thing to actually have the gumption to run to the machine, pick it up and use it. What we're saying, Peter, is that there is more of a likelihood of a person having the gumption to pick up that unit and use it, even if it runs by itself, if they've actually had exposure and training on the unit and a basic background in CPR.

Mr Kormos: I appreciate that and I agree with that, but if I'm with Mrs McLeod and nobody else is around, I hope she throws caution to the wind and puts the things on me. Are you suggesting that only people with training, whatever that level of training is required to be—I want to know—are the ones who should be covered by the act in terms of the liability exemption?

Mr Griffiths: No, we are not.

Mr Kormos: Or should any person? The bill now says any person.

Mr Griffiths: Yes, that's right. In our consultation with the manufacturers of the unit and with our testing and our recommendations from our medical director, it can indeed be used by anyone. They are quite simple to use. Again, what comes into question is a person's confidence in their ability to use it. For example, you do have to take the white pads and put them on somebody's chest, and if you're doing one of these, you might not be able to do it. You might not even be able to place it correctly or you might drop the unit and break it, for all I know. So it really becomes a question of confidence. We are saying that the more people who are trained the better but that we fully support the AED proliferation.

As I heard mentioned before, there is the question really of, where is the funding going to come from? I was curious when that question was answered by the two gentlemen before. I think that's actually pretty key in this whole thing, especially in the private sector. It's one thing to have public access to defibrillation, it's good we're in the malls, but certainly if I'm an investment adviser down at TD or one of the numerous bank towers down there and I'm a 53-year-old middle manager in the right age group for a possible cardiac event, I'd like to know that my employer has actually purchased an AED and it's on the floor that I'm on. Who is actually going to pay for that? That's a very good question.

To a certain extent I think that regulation would obviously push companies to do that. That's why first aid training became so prevalent in Ontario in the 1990s, because it was provincially mandated through regulation 1101. To a certain extent you'll have preferred employer status. I believe, at least in the managerial group in that age group, if they have an advanced health and safety program that includes AEDs as an employee benefit, I'm going to feel a little bit better about that as well. The companies have to truly believe within their own health and safety program that there is a return of some sort in the inclusion of an AED unit in their workplace.

Mr Beaubien: Having spent a good part of my life in the general insurance business, the liability exposure

certainly is a concern to me. I think you're quite right. I think Dr Verbeek in a previous presentation hit the nail right on the head, that in order to have a carrier underwrite the risk, you're going to have to have a thought of a business plan as to who's going to do the training, what type of training, how long it's going to take and that type of thing. I stand to be corrected, but I don't think you'll find an insurance writer that will underwrite the liability of risk by just saying anybody can operate these machines, because I don't think anybody wants to leave themselves that wide open. I'd like to get your response on that.

Mr Griffiths: That's a good point. When I first came into this particular market, I had spent some time dealing with group carriers in the disability management field, and one of my first thoughts—without giving away some of my sales strategy; after all, I am on the business side—is that indeed I think you've hit the nail on the head. The carriers, when they underwrite risk, are very cautious.

I truly believe that part of the strategy to promote AED usage in Ontario would be, on the carrier side, that for them to underwrite policies there would have to be something in the policy, through the private sector at least, through the companies themselves, that they would either get a reduction in premium if their staff were trained in AED or indeed would not be eligible for that liability insurance unless they were trained in AED.

That goes back to the question another gentleman had raised: trained to what standard? That goes back to our conversation with the Heart and Stroke Foundation, Red Cross and ourselves. There is a history of these organizations setting the standard for delivery of first aid training in Ontario, and I would recommend that we be part of that setting of that particular standard.

But yes, I would think that for the carriers to be able to underwrite that, they would feel much more comfortable if they were actually able to put it into the policy itself. In other words, if you don't have the appropriate training, we will not be covering you.

The Acting Chair: Thank you, Mr Griffiths, for coming in and presenting your views today.

HEART AND STROKE FOUNDATION OF ONTARIO

The Acting Chair: Our next presenter is from the Heart and Stroke Foundation, Mr Anthony Graham. You have 20 minutes, Mr Graham, which you may utilize for your whole presentation, or you may leave some time for questions.

Dr Anthony Graham: Good afternoon. The Heart and Stroke Foundation of Ontario welcomes this proposed legislation as an important step forward in responding to cardiac emergencies and appreciates the opportunity to provide comments to this committee.

My name is Anthony Graham. I am chair of external relations for the Heart and Stroke Foundation of Ontario and have been a volunteer with the foundation for over 20 years. During this period of time I have been president

of both the Heart and Stroke Foundation of Ontario and of the national federation. I am also a professor of medicine at the University of Toronto and a clinical cardiologist at St Michael's Hospital.

The Heart and Stroke Foundation has had a long history of concern and action on cardiac emergencies. For the past 25 years, the foundation has actively promoted cardiopulmonary resuscitation training and the concept of integrated emergency cardiac care across Canada. Recognizing the importance of automated external defibrillators—AEDs—the foundation established an advisory committee earlier this year to make recommendations to our board. The work of that expert committee informs this submission.

The foundation believes it is important for Ontario to have in place the best possible legislative and policy framework for the efficient and effective use of AEDs. This brief will outline why cardiac arrest is such a significant issue, the role of AEDs within the chain of survival, the foundation's perspective on the guidelines and standards required for the safe use of AEDs, the role of the emergency medical services system, and some recommendations with respect to the protection from liability proposed by the bill.

Cardiac arrest is a significant issue. As the committee members will know, heart disease is the number one killer in Canada. Every year in Ontario, approximately 6,500 people will suffer cardiac arrest, and this includes 1,000 people in the community of Toronto each year.

Very few will experience cardiac arrest outside of hospital and survive. The proportion of people who survive in fact is less than 5%. Most cardiac arrests are caused by what's called ventricular fibrillation, which can only be terminated by defibrillation. With each passing minute from the time of cardiac arrest, the likelihood of survival declines by 10%. If defibrillation does not occur within 10 minutes of the cardiac arrest, the possibility of survival is very limited.

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Cardiac arrest cannot be reliably predicted. In fact, cardiac arrest can be the initial presentation of clinical heart disease. Consequently, immediate access to the chain of survival is essential. AEDs are an important part of the chain of survival. Automated external defibrillation is an efficient and effective means of achieving rapid defibrillation. I presume this committee has already had an explanation and a demonstration of how AEDs work, so I will not take the time to elaborate. In short, AEDs are safe and easy-to-use devices and may, with the proper training, be effectively used by both medical and non-medical personnel.

US studies show that with the increased use of AEDs within the emergency system chain of survival, survival from cardiac arrest can be as high as 40% to 53%. The AED program in place at Casino Windsor suggests a similar pattern in terms of improved survival. While there is still limited research on the effective use of AEDs, there is strong support for the argument that they repre-

sent a significant addition to the response to a cardiac arrest.

It is important to put AEDs in the context of the chain of survival. This term is used to describe the steps required in the process to save lives of people who have had cardiac arrest. The ultimate goal of the chain is to minimize the time involved from the onset of cardiac arrest to treatment. The four most important components are:

(1) Early bystander recognition: once bystanders recognize the emergency, the emergency medical services system must be activated by calling 911 or the local emergency number. Delays are usually caused by a lack of recognition of the signs of a cardiac problem, either by the individual or the witness, and the lack of a 911 number or an emergency tiered-response system. It is crucial that the public have access to information regarding the signals of a heart attack and cardiac arrest and the appropriate use of the EMS system.

(2) Early cardiopulmonary resuscitation, or CPR: to increase survival, basic CPR must be started immediately after a cardiac arrest is recognized. CPR keeps oxygenated blood going to the brain. Delays are encountered when bystanders are not trained in CPR. Widespread citizen training in CPR continues to be critical, even in the days of AEDs.

(3) Early defibrillation: defibrillation will re-establish the normal spontaneous rhythm of the heart and is the link most likely to improve survival rates in people experiencing ventricular fibrillation. The speed with which defibrillation is applied is the major determinant in the success of resuscitation. Restoration of a normal rhythm and long-term survival generally requires defibrillation be administered, at the outside, within 10 minutes of the cardiac arrest, and optimally within five minutes of the cardiac arrest.

(4) Early advanced life support: advanced life support measures are those implemented by trained health care professionals, including the administration of drugs with associated equipment. Advanced care may be provided either at the scene of the incident or in hospital.

This chain of survival is only as strong as its individual links. While we recognize that this bill is focused on AEDs, it is important for public policy to address all elements of the chain. In this regard, universal access to the 911 system and citizen CPR training should be in place throughout any given jurisdiction. Ambulance response times should also be optimized. The Heart and Stroke Foundation would be pleased to work with the Ministry of Health and Long-Term Care and other key stakeholders to promote public awareness of the chain of survival and the importance of bystander CPR and CPR training, as well as the use of AEDs.

Support for access to AEDs: as I indicated above, there is still limited data on the use of AEDs. Nevertheless, the experience in Windsor suggests that more widespread access to AEDs saves lives. In the Heart and Stroke Health Show we were able to show the use of an AED in that casino and then interview the survivor.

These examples speak volumes, and the survivors and their families make a strong argument for widespread access to this life-saving technique.

Consequently, the foundation supports the bill's intention of providing for AEDs in public buildings. The foundation also strongly supports the development of guidelines for the use of AEDs. In addition, the foundation believes the emergency medical services system has an important role to play in the development and ongoing monitoring of public access defibrillation programs.

The need for guidelines on the use of AEDs: as with any piece of life-saving equipment or any community-based health program, good quality control measures and protocols need to be applied with respect to AEDs and public access defibrillation programs. Issues of funding, coordination, equipment selection and maintenance, the intelligent and effective deployment of AEDs in public places and, in particular, the establishment of appropriate training programs must be addressed. There should be standards and protocols developed of a high quality, and the movement and transition of patients among levels of EMS care should be properly managed. It is important that AED initiatives be part of the chain of survival and that necessary data involving cardiac arrests and the use of AEDs be collected, stored and published so as to facilitate the development of AEDs as an important link in the chain of survival.

In each community establishing a public access defibrillation program, a committee needs to be developed that should have medical oversight and an identified local coordinating authority established with the following responsibilities: (1) promoting the effective use of AEDs and helping to establish a local public access defibrillation program within the context of an integrated EMS system; (2) advising on training requirements and providing access to the needed CPR training, and training as a support for PAD programs; (3) serving as an information and advisory clearinghouse for groups and organizations interested in establishing public access defibrillation programs in other communities; (4) maintaining good relations with equipment and training providers; (5) facilitating the relationship between public access defibrillation sites and provider organizations and the local emergency medical systems; and (6) ensuring the collection of appropriate data on cardiac arrests and use of AEDs. The authority assuming these responsibilities needs to have expertise in cardiac care, as well as pre-hospital emergency care systems. Further, it needs to be a body that will be held publicly accountable for its role.

The foundation feels so strongly that these guidelines need to be in place that it is bringing together an expert panel to develop such guidelines. Hopefully these guidelines would be followed on a voluntary basis, which would of course be preferable, but it would be preferable to have these guidelines developed and endorsed by the Ministry of Health and Long-Term Care. The foundation is certainly eager to contribute to the development of guidelines for the use of AEDs.

The government should consider its role in supporting the EMS system to become fully equipped with AEDs. As stated, the foundation believes the emergency medical services system has an important role to play in ensuring safe access to AEDs. This is not referenced in the proposed legislation; however, it deserves attention.

The Heart and Stroke Foundation has considerable interest in training. Section 3(3) of Bill 51 provides for a training program. The committee may find it useful to understand what the Heart and Stroke Foundation's role is in training. The Heart and Stroke Foundation of Canada has established national guidelines for training in all aspects of emergency cardiac care, and these guidelines are followed by many training organizations in this field. This includes training standards for the use of AEDs. The Heart and Stroke Foundation of Ontario has resources for AED instructors and delivers approximately three instructor training courses each year. The foundation also has information for the general public and is currently developing two toolkits which will be available in 2002, one for the community and one for the workplace.

The foundation agrees with importance of explicit protection for rescuers. Legislation that increases rescuer involvement in cardiac emergencies is very welcome. Consequently, the foundation supports the proposals in section 4 of the bill. It may be helpful if the terms "gross negligence" and "reckless misconduct" were defined to provide further protection.

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The foundation would also request that there be provision for exception from liability for the promotion of broad public access to AEDs, as well as the supply of AEDs by the foundation or other organizations. "Supply" should rather refer either to acquiring or supplying AEDs for use by the public or, alternatively, funding the acquisition of AEDs by third parties for the ultimate use of the public. While it is not the foundation's intention at present to fund the acquisition of AEDs, this has been an activity of the British Heart Foundation. Such claims may be remote; nevertheless it would be helpful to minimize any potential barriers to promoting AEDs.

Finally, the bill does not provide for the creation of any regulations. Would creating references to both the existence of regulations and the power to regulate concerning various issues provide for more effective implementation?

This bill is an important step. The foundation welcomes it and hopes that with the changes made it will proceed to be approved by the Legislature and proclaimed as law. Continuing our long history of activity in emergency cardiac care, the foundation will continue to play its part and would be pleased to work with government in promoting access to early and effective intervention for the cardiac arrest victim.

The Acting Chair: Thank you very much, Dr Graham. We have about two minutes for each caucus, and we'll start with Mr Kormos.

Mr Kormos: Are you arguing that "gross negligence" and "reckless misconduct" are not a sufficiently high threshold in terms of liability?

Dr Graham: Our feeling is that these pieces of equipment are safe. They will not harm people. There is no evidence they will harm people. Their widespread availability will indeed save people's lives. We think they should be used by people who have basic first aid. But even in a situation where people do not have first aid training, this equipment will not hurt somebody. We feel this should be included under Good Samaritan legislation, as it has been in the United States, and this would take away the liability issue in significant part.

Mr Kormos: I know there's going to be a discussion when the bill goes through clause-by-clause, but are you endorsing the gross negligence standard in the bill?

Interjection: The advice we had from our lawyer was that it would be useful if it was even further defined.

Mr Kormos: OK. Do you have any proposals in that regard?

Dr Graham: No.

Mr Kormos: Fair enough. Thank you kindly.

Dr Graham: It's important to understand that this equipment will not harm somebody. There is no way it can harm somebody. The issue is that if somebody has had a stroke or an epileptic fit, it will not fire.

Mr Kormos: One of us asked that question of the Ministry of Health people this morning, because we were interested in the downside, and they said the worst-case scenario is that it could kill you. Now, they suggested that would be very rare. I don't mind getting zapped.

Dr Graham: It won't do that. It's not capable of doing that. The only concern is for the person who feels this machine is all you need to do to somebody who has had a cardiac arrest, that all you need to do is run and get the defibrillator and not do CPR while you're waiting. That is wrong.

Mr Kormos: But you'll understand there's already some conflict today about the role of CPR. You're a strong pro-CPR person.

Dr Graham: Yes.

Mr Kormos: Others have not been opposed to it but have said it plays a minimal role in the whole process. Am I correct?

Mr Colle: In cardiac arrest.

Dr Graham: The availability of rapid defibrillation is the most important issue. That does not preclude the fact that the initial ABCs of resuscitation should be carried out prior to the availability of—

Mr Kormos: While you're waiting for the—

Dr Graham: That's exactly the point. If this happened right now and there was a defibrillator, I would shock you right now without doing CPR, because I could do it. If it would take a minute and a half to get it from upstairs, CPR should be done for a minute and a half and then shock.

Mr Kormos: Under the best of circumstances.

Dr Graham: That's correct.

The Chair: We'll go to Mrs Molinari.

Mrs Molinari: Thank you very much for your presentation. I hope you can help me understand the difference between a situation where CPR would definitely be necessary with the defibrillator versus situations where you

would not need CPR and would just use the defibrillator. Some of the presentations we're hearing today—as Mr Kormos indicated—are saying you need both in order for the victim to be resuscitated, and others are saying, “No, the defibrillator would do it. You don't need CPR.” If I understand correctly, there are various levels. If it's cardiac arrest or if it's something else, in some cases you do need both and in some cases you don't. I hope you can help clarify that for me.

Dr Graham: Let me try. It's a very important question. We've talked about the concept of the chain of survival as being required to allow the optimal chance for the best functional recovery. When the heart stops, blood flow and oxygen flow to the brain stop. The brain starts dying within three to four minutes. Optimally, if you can restore the effective heartbeat within that time period, you don't have any brain damage. CPR, in effect, is an artificial way to provide oxygen to the brain, plain and simple, until one can restart the heart.

If the defibrillator is available instantaneously, that's what you would use as the preferred option. The reality is that even with these programs the defibrillator will not be available instantaneously, because it won't be where the victim is. So the idea of the chain of survival, the calling for help, activating the system, wherever it is, to get the defibrillator—there is still a period of time in most instances, while you are with the patient, where CPR should be initiated until the defibrillator is brought. Hopefully that will come quickly when these are widely available in public places. So CPR is always necessary unless the defibrillator is available instantly, which it never is. Even in a hospital, where a defibrillator is down the hall, 10 yards away, if you're with somebody and they've had a cardiac arrest, you will start CPR for whatever period of time to allow oxygen to go to the brain. They are not mutually exclusive.

What early access to defibrillation does is reduce the likelihood that the patient will have brain death dramatically. This 10%-per-minute figure is absolutely crucial if you think about the length of time to effective defibrillation. If you can reduce to five minutes the time from the cardiac arrest to restarting the heart, you can have survival rates of 50% to 70%. If it's after 10 minutes, it's less than 10%. That's what we're dealing with here. We're really trying to get definitive care to the person who needs it in the community, plain and simple.

The Chair: Comments from the Liberals?

Mr Colle: Thank you, Doctor, for being so direct. You remind me of one of your colleagues, Dr Luigi Casella, my parents' former family doctor and a great cardiologist and heart doctor at St Michael's, a fine institution. Thanks so much for being so informative.

The first thing I'd like to suggest is, I don't think it was the intention of the Ministry of Health earlier to emphasize the dangers of defibrillators. I think they were saying there is a possibility that certain things could go wrong. I think that's been blown a bit out of proportion.

I wonder if at one point, if you get time in your very busy schedule, you could perhaps sit down or commun-

icate with a couple of the presenters earlier today just to straighten this whole thing out, because you're quite emphatic. You're saying this equipment is safe and will not hurt people. I think it would be most beneficial for the committee, just to sit down and get that straightened out, because there's a bit of concern on our part about some of the testimony we heard earlier today.

You're a cardiologist. You deal with the health system, you deal with real life health situations and people's lives and the cost and everything. Are these investments in AEDs cost-effective in terms of saving lives? Is this just motherhood or a cost-effective way of saving people's lives?

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Dr Graham: I think that's a very prudent and timely question. Whenever we think about new and improved systems of health care, I think you have to compare what are the costs we currently spend that we accept, whether it be bypass surgery or kidney transplantation or dialysis or cholesterol-lowering, any of those therapies. We do have costs associated.

As you have heard, the cost of this piece of equipment is the price of a PC now, between \$3,000 and \$4,000. The benefits of having somebody resuscitated promptly in terms of the health care system are staggering. I had a patient in just last week who collapsed at home. His wife went into the washroom to find her husband and called her son to have the EMS there. EMS was there with a defibrillator within three and a half minutes. He was successfully resuscitated with no brain damage and arrived at the hospital I work at to have a defibrillator inserted, which is an expensive piece of equipment—that's about \$22,000. But the point is that this is an individual who is mentally competent and back home living with his family, and was out of hospital within three or four days, as opposed to living in a chronic care institution or receiving all sorts of support for a neurological impairment. That's assuming he had survived.

That's a very good news story. The reality is that if you can defibrillate people early, their chance of functional survival and returning to being useful citizens in our society, taxpayers and all that, is infinitely improved. A lot of what we do at the end of people's lives is very expensive for very little incremental benefit. This, I think, has a tremendous benefit. This particular patient had a cardiac arrest and hadn't even had a heart attack and yet he's home today.

The Chair: On behalf of the committee, thank you Dr Graham. We appreciate your input.

MICHAEL WHITEHEAD

The Chair: I wish to call forward the next delegation, Michael Whitehead.

Mrs Molinari: Are we running late?

The Chair: Yes. Mr Whitehead, have a chair, and if you wish to identify yourself for Hansard, we have 10 minutes.

Mr Michael Whitehead: My name is Michael Whitehead. I am here to support Bill 51. I live in Toronto and for the last 16 years, I've been teaching first aid, CPR and, more recently, automated external defibrillation and advanced first aid. I teach for three national training agencies: St. John Ambulance—I'm an instructor-trainer in automated external defibrillation for them—the Canadian Red Cross and the Heart and Stroke Foundation of Ontario.

I'm the guy who trains people to save lives. Most people take this training because they have an obligation to do so for a job or for their education. If I was the king of Ontario, then everybody who had a driver's licence would be made to take first aid training every three years. But I'm not, so you can take that up at a later time. What I can say is the most gratifying part of my job is listening to students talk about opportunities they've had to save someone's life. It's a life-changing experience and it makes them value everything they do on this planet much more after it has happened.

Sudden cardiac arrest is a major financial health problem, as you've probably already heard today. The Heart and Stroke Foundation's Web site pegs the cost at about \$19 billion a year. Mr Beaubien was asking what the cost is. Well, \$19 billion dollars a year is more money than I could spend in a lifetime. It's \$2 million per hour. In the time I'm speaking to you, if I speak for 10 minutes, Canadians will spend \$330,000, and Ontarians \$70,000 of that, as a result of heart disease and stroke, in lost productivity, life insurance payouts, health care costs and all of that.

A person who survives a heart attack or stroke, as Dr Graham was just explaining, with a significant disability such as congestive heart failure, where they can't walk up a flight of stairs without stopping after three steps to take several minutes of deep breaths or with a stroke and has permanent paralysis, (1) can't work and (2) usually needs home support and long-term medical care. Such a person can easily require millions; \$3 million is what a neurologically impaired person who lives 20 years costs us over their lifetime. Every day in car crashes four people end up with a brain injury and cost us that much money.

That's the financial impact, but that's not the only impact. Their condition means major life changes and suffering for the victim and their family. Parents have to go to work part-time and spend time at home taking care of people; there may not be money for university education. There is a major impact on not just the casualty but the people they live with, their immediate family.

The critical factor, as you've probably heard several times today, is time. Save rates drop by 7% to 10% for every minute that a person doesn't get shocked if they have no pulse. A first-rate EMS system in North America achieves a six- to eight-minute fire and ambulance response from the time the person calls 911 until the ambulance arrives at the door of the building where the patient is located. But getting to the patient and setting up the gear, however expert the people are, takes an

additional two to five minutes if they're not in someone's residence and right in the front lobby. That can add another two to five minutes, and that's why save rates are so low, at about 3% to 5% across North America for EMS systems. Save rates of better than 50% are possible if AEDs are readily available in public places.

Both the American Heart Association and the Heart and Stroke Foundation of Canada recommend that public locations where they estimate people are more likely to have cardiac arrests, such as airports, casinos, shopping malls, golf courses and large office buildings, be equipped with AEDs to achieve a drop-to-shock time of about five to seven minutes. For example, in Toronto, the Woodbine Racetrack has had two cardiac arrests in the last 12 months, both of whom were successfully resuscitated. Their drop-to-shock time is between two and three minutes. On the other hand—and I must apologize because the Eaton Centre now has defibrillators, but three months ago when I asked a security guard, they didn't; and I don't know when I asked someone about this building, but if someone dropped in here today and someone didn't have a defibrillator over there, we'd probably face a 12-minute drop-to-shock time and wouldn't survive.

So AED certainly saves lives, and the cost of saving lives, which Mr Beaubien asked about earlier, is certainly very reasonable. Machines cost \$5000 to \$6000 by the time you add the case and batteries and stuff, and are virtually maintenance-free. The cost is likely to drop significantly with mass marketing over the next few years. Training costs average about \$100 to \$150 per year per person trained and that includes medical direction. Training is readily available about the province.

In terms of the cost spread over a number of people, it's truly reasonable. I live in a building with 265 units and 400 residents, many of whom are elderly. I've seen ambulances called three or four times for various kinds of medical emergencies in the past three or four years. The cost of an AED for my building would be \$12 to \$15 per resident. In large buildings with public access and traffic of more than 1,000 people per day, the cost drops to \$5 to \$6 per person. Is there anyone in the room who wouldn't spend that small sum, the cost of one lunch, to ensure the best chance of survival for victims of sudden cardiac arrest? I don't think so.

Heart attacks and strokes affect many people. I'd be surprised if anyone in this room didn't know someone who had suffered a heart attack or a stroke. In my own case, the first time was when my Aunt Jennifer called me after midnight one winter evening to say, "Your uncle has just died." My Uncle Edward was 48 years old and had gone into cardiac arrest at his cottage in Ste Adèle, Quebec, which is in the Laurentians about 45 minutes north of Montreal. A neighbour initiated CPR within a few minutes and he briefly regained consciousness, but went back into cardiac arrest and stayed dead. At the time, neither Montreal nor Ste Adèle had 911 phone service, and ambulance response time was 45 minutes. Clearly, under those circumstances, my uncle had no chance of survival. This summer I spent a weekend with

my cousins and reflected that under different circumstances, if an AED had been available, he might well have been spoiling his nine grandchildren on the beach with us that day.

By contrast, earlier this year a cardiac arrest happened at Woodbine Racetrack and a defibrillator was immediately available and they didn't have to do CPR. On the third shock, the person regained consciousness, and apparently his first words were, "Did I win?"

Mr Colle: He sure did.

Mr Whitehead: I think we all do in a situation like that.

Early defibrillation saves lives. It's affordable, it will save us all social services and health care dollars, and it will improve recovery and reduce human suffering. No one who is lucky enough to collapse in a public place in Ontario should have to wait more than five minutes for this life-saving therapy. As Dr Safar, the person who promoted artificial respiration in 1958, said, "Theirs are hearts and brains too good to die." I urge you to enact this bill as soon as possible. The life you save may well be your own or someone you love.

The Chair: Thank you, sir. I know 10 minutes goes very quickly. There's maybe a minute of PC rotation, if there is any very brief comment.

Mr Hastings: You bring a very interesting viewpoint involving the national dimension of the program. While this is a provincial bill and the province pays most of the health care, what's your thinking as to federal engagement in this kind of an enterprise? Do you think they should be helping to pay for starting a national program, and Ontario would be part of that national program?

Mr Whitehead: If it was up to me, I wouldn't wait for the federal government to be involved, but I would certainly say there's a leadership—

Mr Hastings: That's a very good point.

Mr Whitehead: I sent an e-mail to Jean Chrétien about six months ago when Bill Clinton enacted enabling legislation in the United States for airports and promotion of AEDs in federal buildings and I've gotten about six e-mails from different departments saying, "These are wonderful things that private sector corporations are doing. I hope you're interested, and thank you for your interest."

Mr Hastings: This was the federal response?

Mr Whitehead: The federal response was to tell us what was going on, but they didn't say they had any plans to put defibrillators in public buildings.

Mr Colle: Unlike my colleague from Etobicoke North, I'm not going to wait for the feds. I think we can do something here and lead the way right across the country.

The Chair: Thank you again, Mr Whitehead.

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ONTARIO MEDICAL ASSOCIATION

The Chair: I would ask the next delegation, the Ontario Medical Association, to come forward. Good

afternoon, gentlemen. We have you available for 10 minutes; I know there were some last-minute arrangements. I'd ask you to identify yourselves for Hansard.

Dr Ted Boadway: I'm Dr Ted Boadway, executive director of health policy of the Ontario Medical Association. With me today is Dr Dreyer, professor of emergency medicine at the University of Western Ontario. He's also chair of the emergency medicine section of the Ontario Medical Association, and medical director of the base program for London and Middlesex, Perth, Oxford and Elgin counties, which means he oversees the paramedics there. He will make our presentation.

Dr John Dreyer: Mr Chair and members of the committee, it's a pleasure to be here today. Thank you for this opportunity.

Death from sudden cardiac arrest is certainly a significant health care issue in Ontario. Efforts to improve survival from these catastrophic events should be encouraged. Improved rates of citizen CPR and rapid access to defibrillation are the two most likely to lead to improved survival.

A review of the evidence from the medical literature describing the potential benefits of these manoeuvres might be instructive to the committee as you deliberate on this important decision. It's not sufficient to review only the number of cardiac arrests that occur each year, but one must analyze the factors that will make those cardiac arrests available to intervention and therefore potentially save lives. There's a study currently underway in the United States, which, when completed, will help elucidate these issues. But we are fortunate in Ontario to have available to us data which may help us in this regard.

You're probably familiar by now with the Ontario Pre-hospital Advanced Life Support Study, or the OPALS project. This study is the largest ever study of out-of-hospital cardiac arrest, and is currently ongoing in 21 urban, small urban and rural communities in Ontario. A subset of the OPALS data taken from three medium-sized cities for the period 1995 to 2000 reviewed the locations of cardiac arrest in almost 1,400 cases. This data is shown on page 2 of your handout; there's a chart there. Looking at that, you can see that the percentage of cardiac arrests that actually occurred in large public buildings was quite small. Similarly, the percentage in small public buildings was also small. Using statistical analysis, it's been calculated that if survival rates were to have doubled as a result of using public access defibrillation in large public buildings, one additional patient would have survived during this five-year period in these three cities in Ontario.

According to OPALS data, it can be estimated that of the estimated 6,500 cardiac arrests occurring annually in Ontario, only about 90% are cardiac arrests occurring as a result of a cardiac cause. That leaves just a little under 6,000 cases, of which only about 50% are witnessed arrests. Clearly, in order to use a defibrillator you have to witness the event in order to apply the technology and potentially save a life. This brings us down to approx-

imately 3,000 cardiac arrests occurring in the province which are witnessed and are therefore potentially responsive to early defibrillation. Of these, a further 20% are actually going to occur in view of the paramedic. That brings us down to 2,400 cases. Further recognizing from the chart I've just referred to, approximately 80% of these cardiac arrests are actually going to occur in private residences or nursing homes—those are the small and large residences. This means that of the 6,500 cases occurring in the province each year, only about 500 could potentially benefit from the widespread introduction of public access defibrillation programs.

We now face the daunting challenge of time and location. In the absence of adequate CPR, defibrillation must be accomplished within four minutes before brain damage begins to occur. In a large office building or indeed in this building, it's most likely the defibrillator would be kept near the front entrance. During that four minutes, someone must first of all correctly identify the potential for a cardiac arrest, run to get the machine, wherever it is, take it out of its container, run back to the unconscious person, bare their chest, apply the pads and actually turn the machine on and deliver the shock. Perhaps to some this sounds easy, but I think it's a daunting challenge in the face of people who have not taken charge of this type of critical situation before. And it may be even much more difficult in a high-rise office building.

There's research which speaks to this matter, and that research shows that where the location of cardiac arrest has been studied, there is no pattern to the public places in which those arrests occur. They occur anywhere and everywhere. Therefore, even with a potential caseload of 500, the number of instances where access would be timely must surely be minimal. Furthermore, a continuing process of updating the knowledge of the whereabouts and usefulness of the modality must be carried on in the workplace, in the office building where these are kept, and new staff must be made aware of the equipment.

At the same time that introduction of public access defibrillation is likely to have a small impact, statistical analysis suggests that improving rates of citizen CPR would have a much greater impact. Present rates in Ontario are approximately 15%. Looking at OPALS data again for the period 1991-97, there were 9,200 cardiac arrests in that period. If citizen CPR rates could have been improved to 30%, we would have saved an additional 107 lives during that period of time. If we could have increased them to 40%, we would have saved over 350 lives.

Liability is another issue I want to briefly address. Section 4 of the proposed act deals appropriately with protection from liability for individuals operating a defibrillator and for owners and operators of sites where defibrillators have been installed. It should be noted, however, that the purchase of a defibrillator carries with it a responsibility to ensure that at all times it is available for use and in good working order. There must be continuous updates to existing staff and training of new staff,

not just in the use of the defibrillator but in recognizing cardiac arrest. We do not know the standard to which the owners of these public places will be held in a court of law. But in the environment in which I operate, failure to maintain equipment and train staff has been found to be gross negligence or reckless conduct. Our question is, could this lead these owners into the same situation?

The Ontario Medical Association would like to commend this initiative, since it focuses on the subject of pre-hospital care of cardiac arrest. As policy-makers, when you make these decisions you will be committing the public purse and private businesses to significant cost and logistics expenditures. We have tried to present data that will help you in this analysis. Before this policy decision is made, we believe it would be valuable to compare the costs and benefits of increasing the use of a simple skill such as CPR to those of introducing public access defibrillation. It may be that you will wish to await the data that will soon be available from the ongoing American study. However, that is your decision. We would certainly like to encourage ongoing analysis of cardiac arrest data that could lead to the appropriate installation of AEDs in locations where cardiac arrests are more likely to occur.

The Chair: Thank you, Doctor. We have a minute or so for comments or questions. We'll begin with the Liberal Party.

Mr Colle: Thank you very much for the presentation. I guess you've looked just at the OPALS Study. Have you looked at the New England Journal of Medicine study of casinos in the United States?

Dr Dreyer: Yes. No question, it has been shown that putting defibrillators in casinos has been effective. We have experience in Ontario in that regard. In Windsor we have defibrillators in the casinos. They're extremely efficient and save a lot of lives. But that doesn't mean there are thousands of other locations in the province where the same sort of thing occurs. Indeed, looking at the London experience, we have analyzed our data over several years and found there is absolutely no pattern to where these arrests occur, in terms of shopping malls, large office buildings and so on.

1600

Mr Kormos: Along that same vein, your final sentence, locations more likely to occur, Dr Verbeek made some comment on it. He said you can identify. What is it about casinos versus, let's say, the Seaway Mall in Welland, which has a lot of, I don't know, the same kind of people, at least as much as I—I've been in the Seaway Mall a lot more than I've been in casinos.

Dr Dreyer: I think you have to look, certainly, and at the end of my comments I urged that we do continue to look and see if there are any patterns. At the present time, apart from casinos—in the OPALS Study at least, and that's 10,000 cardiac arrests, or close to it—we've not been able to establish such a pattern.

Mr Kormos: So you say how many cardiac arrests have occurred there. That's probably the most simple, basic way of doing it. OK, fair enough. It's too obvious.

Mr Hastings: Dr Dreyer, I take it that the OMA's position, or at least your position, is that we should proceed with some caution in terms of the strategic location of these particular devices on a widespread basis, even where you are after you've completed community policing, the ambulance service, the fire departments, where I've had some involvement through our Rotary Club. We've managed to place three in fire trucks over the last number of years. I would like to know, should we proceed not only with caution but, in that caution, proceed with a prioritizing of the places that have the mostly likely possibility for these cardiac arrests because of anxiety, like in the casinos, or, when you come to a place like this, a Legislature, the excitement of the place?

Dr Dreyer: I'd be very interested to know, sir, if there have been a number of cardiac arrests in the Legislature building. Certainly if there have been, it would be reasonable to have a defibrillator in this location. I think the concern I'm trying to express is with regard to the wording in the bill which suggests that these be placed in buildings with general public access. That hasn't been defined, but it could certainly refer to every 7-Eleven and Blockbuster store in the province.

Simply saying there are 10,000 people who work in this building doesn't cut it. If you put a defibrillator in the Toronto-Dominion tower, in the foyer, and the arrest occurs on the 60th floor in a corner office, the chances that somebody is going to recognize it, witness it, get downstairs or call somebody downstairs and get them up there so they know where they're going and get them into that office within four, five, six, seven minutes is not very good. You've got to look and see. If you had 10 arrests in that building, it may be worth a try putting one in there, but if you haven't had any arrests in that building in the last 10 years, it's probably not worth it.

Mr Hastings: Prioritization based on statistical incidence, on data.

Dr Dreyer: Absolutely.

Mr Colle: So \$5,000 isn't worth it?

Dr Boadway: Actually, the whole question of cost benefit is a very difficult one, and unfortunately these questions get answered a little quickly. I don't know of a formal cost-benefit analysis that's been done on this issue. We couldn't find one. There may be something that would convince us on this matter. We're not convinced one way or the other, actually.

Mr Colle: You wouldn't spend the \$5,000 if you were in that Toronto-Dominion tower?

Dr Boadway: No, I don't know whether I'd spend it or not.

Mr Colle: You wouldn't spend \$10,000 and put two in?

Dr Boadway: I don't know.

Mr Colle: You'd just leave it as is?

Dr Boadway: No, what I would like to do is know what the studies show that would help me make that decision. If the studies are there, just as the science has been analyzed, I think that's what we want to see.

Mr Colle: Why would the federal government in the United States pass legislation to put them in all federal buildings and in rural communities, then?

Dr Boadway: I don't know.

Mr Colle: Why would the FAA put them in all their airplanes? They think it's worth the \$5,000; you don't.

Dr Boadway: No, we didn't say it wasn't worth \$5,000.

Mr Colle: You basically have said that today.

Dr Dreyer: I think the cynical eye would look at the timing of the introduction of that legislation in the United States, with a President about to leave office.

Mr Colle: It wasn't a political issue at all.

The Chair: On behalf of the committee, I do wish to thank you, Dr Dreyer and Dr Boadway. Thank you for your time and flexibility.

RESCUE 7 EMERGENCY TRAINING SERVICES INC

The Chair: For our next and final delegation today, I wish to call forward Rescue 7 Emergency Training Services Inc. Have a seat, sir. We'll ask you to give us your name for Hansard, and we'll proceed with your deputation.

Mr John Collie: Thank you. My name is John Collie and I'm director of Rescue 7 Emergency Training Services Inc. I'd like to thank the Chair, committee members and the clerk for inviting me here today to allow me to speak on behalf of Bill 51.

Our agency has been in existence for approximately four years, and our head office is located in Markham, Ontario. We provide health and safety training and supplies to companies, organizations, educational institutions, daycare facilities and governments on all levels. All of our instructors and sales personnel are or have been in the emergency services field in some capacity, whether it be paramedicine, firefighting and/or nursing. Our agency trains and provides supplies in this field to clients right across Canada.

Rescue 7 Inc is fully approved federally in CPR/first aid training by Health Canada and Human Resources Development Canada. We are approved provincially by the Workplace Safety and Insurance Board (WSIB) of Ontario. We are also approved by Health Canada, Human Resources Development Canada, and Sunnybrook and Women's College hospital in Toronto in automated external defibrillation training. All of our instructors are individually accredited to teach CPR/AEDs through the Heart and Stroke Foundation of Canada and/or the Heart and Stroke Foundation of Ontario.

I have been an employee for the past 14 years with the Toronto Fire Services, east division. In my capacity with the fire services, I have had the opportunity to become a shift training instructor in first aid and defibrillation. This opportunity has allowed me to experience the pace of the technological growth of defibrillators.

As director of Rescue 7 Inc, I have been a part of the educational process of defibrillators since their infancy in

the public access defibrillation program. I am currently an AED instructor trainer for the Ontario Heart and Stroke Foundation, the Canadian Heart and Stroke Foundation and the American Heart Association. I am also an emergency patient care/first responder instructor with the Ontario fire marshal's office.

Rescue 7 Inc provides PAD—public access defibrillation—training to a number of companies and organizations in Ontario and across Canada. Just to mention a few of our companies, Ontario Power Generation is one. I had the pleasure just a couple of weeks ago of visiting the riding of the honourable member of the Legislature Lyn McLeod, and visited Atikokan to train the Ontario Power Generation employees in that area. Some of our other companies are Johnson Controls, Husky Injection Moulding and CIBC.

We go across Canada, and we follow the guidelines set forth by the various provincial heart and stroke foundations, the Canadian Heart and Stroke Foundation, Health Canada, Human Resources Development Canada, and of course Sunnybrook and Women's College hospital. And we provide a training manual, which is Health Canada-approved, to every participant in our program.

Our program is continually monitored and directed by our physician. Our daily tracking system via our Web site allows us to keep a database on each AED provider that we train.

Rescue 7 Inc supports Bill 51. The statistics that have been presented before you today show that clearly there is a need for defibrillators. The greater the access to these machines, the more lives we save.

Some companies and organizations have taken upon themselves to go ahead and implement a PAD program for their buildings, offices, plants and/or sites. Cities, towns and communities throughout Ontario have emergency medical services in their areas or close by, but ambulances and fire trucks are not always able to respond in time to prevent a death from a heart attack. Promoting defibrillators and placing them strategically in urban and remote areas of our province is a positive move.

The concern Rescue 7 Inc has is with the training of the participants using these machines. We feel there must be a set of guidelines to follow and there should be some type of governing body that oversees protocol and ensures that these guidelines are similar to approvals met by agencies governed by the WSIB for first aid.

Rescue 7 Inc recommends that training agencies be approved by a governing body before they can provide AED training to various companies, organizations and individuals. Federally, Health Canada, under the guidance of Dr Harwood and his staff, has implemented AED standards that training agencies must meet to become recognized and be able to provide training to companies and organizations that are under federal jurisdiction. Sunnybrook and Women's College hospital has taken the same approach under the guidance of Dr Verbeek for city of Toronto employees. These approvals are important to

maintain competency and standards in the field. It is important for training agencies to meet and maintain certain criteria in order for PAD programs to continue in their standard of excellence.

In order to be consistent, we must nominate one governing body to oversee a province-wide or nationwide program. Since individual industries do business right across our country, it would be prudent to try to work with all other provincial bodies and come up with one master training plan or at least provincial plans that are on the same level, not only in the training of defibrillators but also with the liability factors related to the machines. Bill 51 will effectively reduce any fears associated with purchasing a defibrillator and the liability issues involved therein.

The Heart and Stroke Foundation of Ontario sets guidelines for cardiopulmonary resuscitation and AED training. This organization does research and recommends certain levels of training for the public and private sectors. Rescue 7 Inc believes there must be some level of control and competency with anyone training participants to the AED provider level, and the only way to achieve this is to have a governing body approving these agencies.

Bill 51 will help to ensure that defibrillators are purchased. Our concern is that before a defibrillator is purchased, a training program with medical oversight should be in place or the manufacturer or manufacturers should direct the purchaser to approved training agencies and have an agreement in place before the manufacturer releases the AED to the purchaser.

The Chair: Thank you very much, sir. We have about three minutes for comments or questions, beginning with the Liberals.

Mr Colle: I guess the main thing is that you support standardized training guidelines, right?

Mr Collie: Correct.

Mr Colle: That any recognized training body would have to meet certain criteria?

Mr Collie: Correct.

Mr Colle: You know those criteria are already in place from the feds, so it's there already?

Mr Collie: Pretty well, yes, it is. We're just making sure that before we go ahead with this, the training agency should seek those approvals before they go out and do training with individual corporations etc.

Mr Colle: Thank you for your presentation.

The Chair: Mr Kormos, any comments?

Mr Kormos: No, thank you, sir.

The Chair: Any comments from the PC Party? Seeing none, we are under some time pressure; we have our Ottawa meeting tomorrow. So I wish to thank you, Mr Collie, for coming before the committee.

I have a brief important announcement for committee members that we can discuss once I adjourn. I declare the committee adjourned.

The committee adjourned at 1611.

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Thursday 30 August 2001

Journal des débats (Hansard)

Jeudi 30 août 2001

Standing committee on justice and social policy

Portable Heart
Defibrillator Act, 2001

Comité permanent de la justice et des affaires sociales

Loi de 2001 sur les défibrillateurs
cardiaques portatifs



Chair: Toby Barrett
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY

Thursday 30 August 2001

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Jeudi 30 août 2001

The committee met at 0924 in the Ottawa Marriott Hotel, Ottawa.

PORTABLE HEART
DEFIBRILLATOR ACT, 2001LOI DE 2001 SUR LES DÉFIBRILLATEURS
CARDIAQUES PORTATIFS

Consideration of Bill 51, An Act to help save the lives of Ontarians who suffer from cardiac arrest by promoting the widespread availability and use of portable heart defibrillators in public places / Projet de loi 51, Loi visant à contribuer à sauver la vie des Ontariens qui souffrent d'un arrêt cardiaque en promouvant la disponibilité et l'usage généralisés de défibrillateurs cardiaques portatifs dans les lieux publics.

The Chair (Mr Toby Barrett): Good morning, everyone. Welcome to this regular meeting of the standing committee on justice and social policy for August 30, 2001, in Ottawa. Our agenda today is consideration of Bill 51.

OTTAWA HEARTSAFE

The Chair: Our first order of business will be to hear a deputation from Ottawa HeartSafe and I would ask representatives of that organization to approach the witness table, please. You can have a seat, sir. We have 20 minutes

Mr Michael Dumbrell: I won't need 20 minutes.

The Chair: OK. I can give you fair warning that there will be comments and questions from all three parties—

Mr Richard Patten (Ottawa Centre): Time permitting.

The Chair: Time permitting. I would ask you, sir, if you would identify yourself for the purposes of Hansard and then proceed.

Mr Dumbrell: First of all, thank you very much for allowing me to be here. I take a great pleasure in being here. My name is Michael Dumbrell. I'm executive director of an organization called Ottawa HeartSafe. I've got some notes prepared for you, and I'll refer to them in a minute, but I just want to give you a little bit of background. As my day job, I'm a real estate developer. I have a company called Mayfair Developments. Ottawa HeartSafe was formed on a purely volunteer basis. It was

just a need that a group of us saw needed to be met in 1978. That's how we came to be.

I'll read my notes and leave some time at the end. I'm sure there will be a few questions.

In the fall of 1998, it became apparent to me that there was virtually no defibrillation support outside of hospitals and ambulances in the city of Ottawa. As important as it was, and is, for people to be trained in CPR, which we all know, the reality of the matter is that unless a victim of cardiac arrest has their heart rhythm restored immediately after the heart attack, within seven or eight minutes or so, the victim will in fact be dead. A lot of people confuse CPR with the defibrillation act, and of course CPR is a very important first step of what they call a chain of events.

This realization that we needed defibrillation initiated a movement to have automatic external defibrillators installed in public access buildings, so with the help of some of those who will be gathered here later on today, Ottawa HeartSafe was conceived on a volunteer basis with the goal of raising money from the private and public sectors and to provide for the capital cost and staff training of 100 defibrillators. Our goal when we started off on this thing was 100. It seemed like a very lofty goal; however, 100 was a good round number and that's the number we chose. We did it, one at a time.

Like most fundraising activities, the going was very slow in the beginning. There's a lot of competition out there for the benevolent dollar. At no time, however, was it ever suggested that the idea was daft or inappropriate or somehow not something that was desirable. On the contrary, almost everyone I came into contact with knew of someone who had been affected by heart problems, whether it be a relative, close friend or acquaintance. No one needed to be convinced of the value of the program, which offered help to take on such a widespread disease.

As executive director of Ottawa HeartSafe, I received letters from public and private officials commending the work that was being done and wishing us great success. We were asked by service clubs to come and present to them. Commercial landlords requested information on behalf of themselves and other landlord organizations of which they were members. Newspaper and television reporters were anxious to break the news of this wonderful new initiative.

As more and more people became aware of this new technology, more and more interest was generated. But

inevitably the thrust abated and the act of taking the next step, for one reason or other, was set aside, usually the victim of some apparently more pressing fiscal priority. The common claim in a lot of these cases was, "We really should do this, it's a great idea, but we can't really do it this year. Maybe next year's budget will allow it." Of course, next year would come and go and still no program would have been instigated.

Ottawa HeartSafe was able to achieve a satisfactory degree of success in finding donors and placing AEDs in public facilities. We did the YMCAs in Ottawa, we did the Jewish Community Centre, and various community centres and health facilities. But the major turning point in our case came when the city of Ottawa stepped up with an initiative spearheaded by Dr Rob Cushman of the public health office, Graham Nicol and Justin Maloney of the Ottawa General Hospital, and the endorsement of certain municipal leaders in the new city of Ottawa.

At that point, Ottawa really took its place in North America as one of the leading municipalities to address this issue. The placing of some 345 units and the associated training of staff has made Ottawa one of the safest heart cities in North America and probably the world, truly a fine example, showing initiative and sound public health planning on the part of those entrusted to do such things.

0930

Just getting back for a moment to the challenges we faced in the beginning, I think it's really important to stress to this group today that no one considered our work anything but worthy and a prudent step to address a considerable health threat to the general public. After all, we've all heard the statistics of an imminently aging population whose health concerns will indeed become more and more prominent as the boomers of the 1960s move into the second half of their lives en masse. But what I found was that the real challenge lay in convincing others, most notably the decision-makers with many other decisions to make, that this was an issue that needed to be dealt with immediately and not after the horse was down the lane, so to speak; not after cardiac arrest victims were lost at neighbourhood malls or golf courses or movie theatres or performing arts centres or facilities such as the one we're sitting in now. I dare say that this facility probably does not have a defibrillator or a defibrillator system and trained staff.

I routinely receive inquiries from groups who like the idea of installing the defibrillator program but for whatever reason, be it funding or lack of urgency or some other reason, simply do not take the next and critical step of actually doing it. The idea seems to get stuck at the concept stage. Everybody likes the concept but it stalls at the roll-up-your-sleeves-and-get-to-work-and-do-it stage.

The relatively small cost of purchasing and training on a defibrillator should hardly be an obstacle to going ahead. It does not represent a burden to most organizations. After all, we're talking about a cost of approximately \$6,000 for placement, including the training. By the way, when I started off in this we were paying \$7,500 per placement, but because this is starting

to take off now, deals can be made with manufacturers from whom we're purchasing these units at considerably cheaper prices, and there are good packages available for training staff.

The other issue that comes up sometimes when we're talking about this is the issue of liability. It's been raised as a concern but has also been dealt with in law by deeming the act of attempting to revive a cardiac arrest victim as an act of compassion and one which should in no way place the individual or organization attempting to help in any sort of legal vulnerability.

There has also been some concern expressed in not wanting to shock a patient who does not need to be shocked. I think some people are concerned that these defibrillators can do damage to a patient. However, the technology of the machine—and I wish I had brought mine. Usually when I come to these presentations there are about six of them in the audience, so I've stopped bringing them, but unfortunately this morning there's none. I hope you have seen them. There will be some here later on this afternoon. I know who is coming and they will bring their machines. The technology of these machines just removes any kind of critical decision by a human being from the equation. It simply will not administer a shock if the patient's vital signs do not indicate it appropriate. For those who may not be familiar with this machine, it's actually taped on to the chest beside the heart. It monitors the vital signs from there and will not issue a shock if the patient does not warrant one.

The machine virtually walks the operator through each step. It has a mechanical voice in it that dictates each step that should be taken, and which is easily taken, and it will override any possibly human error and is virtually foolproof. A child can be taught the procedure. As a matter of curiosity, children seem to master the process more quickly than adults.

So we're left to wonder how to bring about this last step in the generally accepted and apparently prudent decision-making process of whether to install PAD programs in public facilities. In my view, the proposed legislation, Bill 51, the Portable Heart Defibrillator Act, will be the agent that tips the scale in favour of the right thing to do.

Shopping centres and malls have become more than a place to purchase commodities. They are in fact gathering places for different and large sectors of society. Restaurants, theatres, golf courses, community centres, retirement homes, virtually any public-use building would benefit from having a PAD program.

I think the proposed legislation represents an idea whose time has come and demonstrates sound, prudent planning on the part of public health officials. It demonstrates leadership on the part of government in an area with proven need and acts as a beacon for bringing forth legislation that the majority of the public will at some point in their lives, either directly or indirectly, benefit from.

I hope these comments have been helpful to you and of some contribution. Once again, thank you for the opportunity to appear here today.

The Chair: Thank you, Mr Dumbrell. This committee did have a demonstration of one of the machines yesterday by the Ministry of Health. I would now ask for questions and comments. We have about two minutes for each party, beginning with the Liberals.

Mr Mike Colle (Eglinton-Lawrence): I want to thank you, Michael, for being here, because I was trying to find out essentially why some cities in Canada, like Ottawa, seem to be basically light years ahead. I know Ottawa has about 300 in operation. Toronto has a population of 2.6 million and we've got about 30 or 40. Windsor seems to be the other place. I was desperately trying to find out why Ottawa got going, and I think I found a few of the key players.

I want to congratulate you and HeartSafe for putting in your volunteer time to get the program going here in Ottawa and inspiring the program. Again, on behalf of people who are interested in this initiative, I certainly congratulate volunteers like you for doing this.

You are in commercial real estate, the development business. I guess what we're trying to get at is, what would be the benefit if I'm a landlord—we had someone who had sold the program to the Cadillac Fairview in Toronto—of a shopping mall or a public facility? A golf course may be more obvious, but what would be the benefit of their purchasing or supporting such a program initiative?

Mr Dumbrell: These large landlords pride themselves on prudent property management principles. I think the same as they would provide a fire retardant system or the latest in technology in terms of providing smart buildings for people to adapt their computers and Internet use and everything we hear about, the same principle applies here. In fact, in this particular case in building management, especially in the case of office buildings and shopping centres where we have a large concentration of senior citizens, it's very prudent, very timely, very appropriate to have one of these machines and training of security people to be able to react quickly to an incident.

To answer your question directly, I think it's prudence on the part of the landlord.

Mr Colle: I just have one more quick question. In terms of getting over the hump, you mentioned here the major turning point in Ottawa, because you had been talking about it. What happened to turn it around?

Mr Dumbrell: The horse down the lane is a good scenario to use here. Everyone thinks it's a great idea. There's no one who has said, "Dumbrell, you're crazy. You shouldn't be doing this. You're wasting your time." Everybody said, "That's a great idea. My dad passed away. I wish we would have had one." I get donations from people who have lost relatives, well-known developers, well-known wealthy organizations. It just seems like it's the right thing to do.

The legislation doesn't have the feel that we're ramming anything down anybody's throat. It feels like it's the right thing to do and, "Yeah, OK. Now we need to do it." In my opinion that's probably going to be the reaction from the people who are asked to do this and to

fall into line with this thing. As I say, no one thinks it's a bad idea.

But it's not something that's pressing; it's not an urgent need. There's always something. There's a plumbing issue or a hole in the roof or some other issue that was more pressing that got the money, and, "OK, we'll do that next."

Golf courses is a great example. We have guys 50, 60, 70 years of age, and it's a \$6,000 item. These guys each pay three times that much for initiation on these courses. They are always asking me, "How much can I buy one of these things for?" But they just don't take that last step. I think this will just be a beacon for them. They'll say, "Yes, let's just do it."

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Mr Peter Kormos (Niagara Centre): What is it about the bill that you find attractive? Clearly, the city of Ottawa has this program, the city of Windsor—I don't know what other communities; those are the two we've heard about. In the private sector, the Eaton Centre—Cadillac Fairview uses these. So what about the bill do you find attractive? It's obviously not a liability issue, right? There's no liability issue. What does the bill do?

Mr Dumbrell: I went into the Web site and downloaded it. What I like about it, as I said before—I keep using the example—is it's a beacon. I think it shows the way for some people who may not have addressed this issue. It may not have been a priority with them, so they just haven't become aware it is an important issue.

Mr Kormos: OK. You've got your golf club with the \$18,000 entry fee. I come from small-town Ontario. I've got little Ukrainian halls and Croatian halls and those sorts of groups. You get into the Moose Lodge for 50 bucks, I think. They can't afford this equipment. These people are struggling. Property tax increases nailed them big-time. They tend to be elderly. They're cooking perogies there till 3 in the morning just to make a couple of bucks on a Friday.

Should the government be sponsoring a program where organizations like the Ukrainian Cultural Centre in Welland, which hosts huge public events and is of great value to the community—should we taxpayers be providing this machinery if those halls are non-profit and don't have the resources your golf club has?

Mr Dumbrell: I'll just go back to my point about prudent management of any kind of public facility where you have those groups of people. I think it's prudent management, the same as you have a fire retardant system, any type of system that accommodates people. I think anyone can justify that system.

Mr Kormos: Should funding be available to these organizations that don't have the resources to pay for it out of pocket? They're retirees, poor Ukrainian retirees whose pensions are dwindling under the pressures of—you know the kind of folks I'm talking about.

Mr Dumbrell: Absolutely, I do, and I think you have raised a good point. I don't feel qualified—

Mr Kormos: Old ladies with arthritic fingers, making perogies till 4 in the morning—

Mr Dumbrell: I take your point; however, I don't feel qualified to comment. If you're asking my personal opinion as a taxpayer, I think they'd certainly get my taxes.

Mr Kormos: All right. Good. Thank you.

The Chair: I'll go to Mr Beaubien.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): I'll split my time with Mr Guzzo.

Mr Garry J. Guzzo (Ottawa West-Nepean): I just want to say that as someone who has been involved in the development industry in Ottawa over the years, it's interesting to see some of the charitable work that goes on and the leaders from that industry taking the lead. It flies in the face of some of the criticism you've had to take over the years, and I commend you for it. I just want to explain to Mr Colle that I thought he would have recognized the answer to why Ottawa is so far ahead in so many fields. This, again, is related to the St Pat's mafia. I'd have thought you would remember that, having gone to that great institute of higher learning.

The other thing is, I would just correct a few things for Mr Kormos, I think, because I do have occasion to visit Welland and I drive through Thorold to go to a course called Lookout. What does it cost to join Lookout? Oh—

Mr Kormos: You won't see any old Ukrainian ladies playing golf at Lookout.

Mr Guzzo: And those perogies are very tasty, but we don't have anything in Ottawa to compare to Lookout. I just want you to know that.

Mr Beaubien: Just one quick question. You mentioned that in your opinion there is no liability exposure. I have to disagree with you on that. If you look at the bill, and you are a developer, under section 2 it says, "Privately owned buildings to which the public has general access." I would ask you as a developer how you feel about it, and I would also ask you to discuss it with your insurance broker, when you look at the liability wording, as to whether there would be any liability exposure.

Mr Dumbrell: I too had a concern at the beginning. When I started, I was concerned about liability, and that was one of the first questions I asked. This program operates under the auspices of various doctors who take it under their wing, so to speak, to operate under their insurance policy. In this particular case, Ottawa Heart-Safe, to use an example, operates under the auspices of Dr Justin Maloney, and the insurance policies that cover the doctor extend to people he includes in this particular program. I can safely assume that same type of arrangement can be made for any building that would incorporate this PAD program.

The Chair: Thank you, Mr Dumbrell. We appreciate that report.

Mr Dumbrell: My pleasure, gentlemen. Thank you very much.

The Chair: The representative of the next delegation, the Lifesaving Society, is feeling under the weather and will not be attending. However, the Canadian Red Cross

is here, and I think they are amenable to coming forward a little early.

Mr Kormos: Chair, while they're coming forward—this whole issue about liability—and I appreciate the issue and concern. My dilemma, and this is what I put to research, is that clearly there are 100 units out here in Ottawa in private places, among other things, and similarly in Windsor, in both private and certain public places, and the liability issue didn't rear its head in those two conversations. Yet I appreciate there is some concern. I wonder—and I don't know what direction; that's why research is research. Could they perhaps do some investigation into what in fact is going on, how the insurers of these properties in Ottawa or Windsor have responded to the presence of these machines in there, just to clear it up, because it is a murky area. I'd appreciate that.

The Chair: Thanks, Mr Kormos.

CANADIAN RED CROSS

The Chair: Good morning. Welcome to our committee. You have 20 minutes. We ask you to identify yourself for purposes of the Hansard record.

Ms Tracey Braun: My name is Tracey Braun. I'm proud to be able to be here to speak on behalf of the Canadian Red Cross to tell you how highly supportive we are of Bill 51, the Portable Heart Defibrillator Act. We believe it's a critical step in improving the survival rate of people in Ontario who suffer cardiac arrests.

I'm here today representing the Canadian Red Cross, but I am not a doctor, a medical professional, nor a researcher. In my past, I have worked with the ambulance. My role is that I am a Red Cross first aid and AED instructor. For close to 20 years, I have had the pleasure of teaching other people how to save lives. Over the course of my teaching career, I have seen great advances in the research and theory behind basic life support and vast improvements in instructional techniques and teaching materials. I have also seen the Canadian Red Cross and other national training agencies remove significant barriers to access and place valuable life-saving training where it is needed most: in the hands of ordinary people. The results of these efforts have been more people trained to react in the case of cardiovascular emergencies and more lives saved.

If we think back, not long ago if you were to suffer a cardiac arrest, a heart attack, outside a hospital environment, your chances of survival were slim. It wasn't until 1960 that medical researchers discovered that chest compressions helped circulate blood through a person's body when the heart had stopped. This idea, believe it or not, led to a radical new procedure, CPR: C for cardio, the heart; P for pulmonary, the lungs; and R for resuscitation, which literally translates "to give back life."

For some time, this awesome power to restore life was restricted to the medical community. Then, in the mid-70s, the American Heart Association and the Canadian Heart Association, now known as the Heart and Stroke

Foundation of Canada, recommended that CPR training be extended to the general public.

At the time, in spite of dire warnings—I don't know if you remember the newspaper articles of the time but there were dire warnings that this "highly advanced medical skill" in the hands of lay people would create unbelievable havoc. But CPR soon became commonplace, and ordinary people started saving lives.

When I first became a CPR instructor in 1982, people were shocked at the idea of a high school student teaching CPR. I was only 17. At the time, almost all CPR instructors were from the medical field. They were doctors, nurses or ambulance attendants, wondering what right I had to be there. Today, Red Cross first aid and CPR instructors come from all walks of life, including university students, computer specialists, accountants and young mothers.

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The Canadian Red Cross has over 50 years of experience in teaching first aid to Canadians.

We agree with the Heart and Stroke Foundation that the key to improving the health of Canadians lies within the strength and application of each link of the chain of survival. I'm sure you've gone through that. I think the Heart and Stroke presented that yesterday in Toronto. If any link is weak or missing, the chance of survival is lessened. Recognizing that first aid and CPR are not separate ideas but are both part of the chain of survival, the Canadian Red Cross incorporated CPR into all of our first aid programs at all levels in 1994.

In 1997, the Canadian Red Cross developed the first national training program for public access to defibrillation in order to address the defibrillation link in the chain of survival. We believe that early access to defibrillation is the single most important factor in life or death, increasing the chances of survival of someone suffering a cardiac arrest.

In January 2001, the Canadian Red Cross released the second edition of our first aid program, the Vital Link. In addition to the first aid and CPR content, all of our first aid and CPR courses—all—now include information on how an AED works. This new addition to our program follows one of the major recommendations of the new ECC-CPR International Guidelines released in the fall of 2000.

With the introduction of Bill 51, we now have the opportunity to strengthen the chain of survival even further in Ontario by placing lifesaving AEDs into the hands of ordinary people who can use them and save even more lives. We believe that AEDs should be readily accessible and available where they can do the most good.

I won't bother to go through this next section because I believe yesterday you heard about Casino Windsor, so I'll leave that information. The key point when we're talking about Casino Windsor is decreasing the time. Decreasing the time appears to be the most cost-effective when applied by a public access program. Let's face it,

when we're talking about government, we're talking about cost-effective.

Adding more professional responders to an existing emergency medical system to decrease the collapse-to-first-shock time is economically unattractive. Ensuring easy access to AEDs will be the essence to the success of Bill 51.

Chicago's O'Hare Airport, which I believe you heard about yesterday too, so we won't go into details on that, is a classic example of true public access, and that's what we need to talk about. When we talk about public access, their AED machines are not tucked behind counters or out of sight of the general public, as were Casino Windsor's—their machines were provided by a trained group of rescuers. Rather, at O'Hare, they are mounted on the wall in full view of public access. They have approximately 35 machines throughout their terminals. No matter what direction you walk in a terminal in Chicago, an AED is no further than one minute away. Members of the public can access, and have accessed, the AEDs to save lives. I believe it was Memorial Day of 1999 when there had been five collapses, five saves, and four of the people had not used an AED before.

As another example, Kimberley MacMillan, an authorized provider of the Red Cross, was on duty at Canada Day in London this year as the event's first aid provider. She was accompanied by one of her employees, Cheryl Murray, who is also a trained first aid instructor with the Red Cross. They received an urgent call, and found a man slumped over in his van, barely breathing. They removed him from his van and discovered that his pulse had stopped. Luckily at that time, a fellow came along, Frank Cornelius, who happened to be a first responder for Oneida First Nations. Frank started CPR and shortly after that they attached the automated external defibrillator. The first reading that registered on the AED advised the responders to shock the victim. Immediately after the first shock was delivered, the man's cardiac rhythm and breathing resumed. Using the AED, MacMillan continued to monitor the casualty and no more shocks were required. Emergency Medical Services arrived within minutes to transport the patient to hospital. From the time of the first shock and subsequent restoration of his heart function, the patient maintained a near-normal heart rate and did not suffer further cardiac arrest.

Imagine all of the lives that could be saved if people were trained to use AEDs just like many of us are trained to perform CPR.

We recognize that AEDs are not without risk. Effective guidelines for maintenance, training and support are required. However, these guidelines should not be restrictive but should support the principle of easy access to defibrillation.

An AED is safe to use by anyone who is trained to operate it. Studies have shown the devices to be 90% effective—in other words, able 90% of the time to detect a rhythm that should be defibrillated—and 99% effective to recommend not shocking when defibrillation is not

indicated, far higher than what people can do with CPR and their effectiveness in determining a pulse. Because of the wide variety of situations in which it will typically be used, the AED is designed with multiple safeguards and warnings before the energy is released.

Minimal training is required for the AED. I believe you heard about the study in Seattle where they trained the grade 6 students, so I won't go into that either. Let's face it, we all know that grade 6ers can do VCRs and we still can't.

It's easy to learn how to use an AED, and Bill 51 will contribute to accessibility. However, one barrier to the full potential of AEDs remains: AED is still a medically delegated act in most provinces in Canada, including Ontario. Before using an AED, you need to find a doctor who will license you under his or her licence. Let's not forget that CPR was once also a medically delegated act. Like CPR, AED is an easy, teachable skill, and can be put in the hands of the people who can do the most good with it: again, the members of the community.

The Red Cross is a member of the Emergency Cardiac Care Coalition of Canada, along with Heart and Stroke, St John Ambulance and Lifesaving, who also provide AED programs. We are all well positioned to promote public access to AED. All national training agencies and members of the ECC provide CPR training in an effort to minimize death and disability due to cardiovascular disease. ECC has established medically sound treatment protocols that are accepted as the standard of care that bystanders, paramedics, nurses and physicians follow. Training at the bystander level is simple and the Canadian Red Cross, as well as other ECC members, have developed and are currently training bystanders in the use of AEDs following these accepted guidelines. I have brought examples of our training material.

The Canadian Red Cross looks forward to working with the Ministry of Health and Long-Term Care and other stakeholders to develop what is the most effective intervention in the chain of survival: public access defibrillation.

CPR has become so commonplace we don't hear about the tragedy of someone performing CPR and the patient not surviving because the compressions cannot replace an electric shock. Imagine what could happen if AEDs were available throughout the community.

Over the years, the Canadian Red Cross has helped to train millions of Canadians in CPR. Our efforts, along with those of the other national, provincial and local agencies, have ensured that ordinary people across the country have the knowledge and skills to save lives. We believe that Bill 51 is a significant step forward in our ongoing efforts to improve the health of Canadians and strengthen the chain of survival. Thank you.

The Chair: We have one or two minutes for each party for any questions or comments.

Mr Kormos: You are saying that AED utilization requires a licence, a medical doctor's supervision. What is going on with the 100 defibrillation units in Ottawa and almost as many, if not as many, in Windsor?

Ms Braun: They are presently licensed under a doctor.

Mr Kormos: Is that the base hospital licensing?

Ms Braun: Or the training agency. At the Red Cross we have our own doctor who provides licensing. Depending on who you train with, different organizations have their own doctors who provide licensing.

Mr Kormos: That means that unless I'm trained and authorized by somebody, I can't administer one of these defibrillation machines to, let's say, Mr Patten or Mr Colle or Ms Molinari.

Ms Braun: That's correct. That's why one of the things that needs to be looked at and that we'd like the committee to look at is the deregulation of AEDs, similar to what Alberta has done.

Mr Kormos: We saw a demonstration of the machine. I'm from a Bill 8 community too. I hope those machines are bilingual, because they would have to be.

Mr Patten: Ukrainian and English.

Mr Kormos: No, seriously, multilingual. You've got ethnic areas in Toronto, for instance, where the predominant language is any number of languages. But I'm assuming the machines can do that, which would be an interesting thing. Are you proposing that anybody should be able to use it, even if they haven't been trained? We've had the whole spectrum covered. Some people say, "No, there should be training," and then high standards of training or lower standards, and then some people say no. If push comes to shove, if I'm lying there with my fibrillation, I don't care. Let's face it, the downside is minimal, it appears, right?

Ms Braun: Correct.

Mr Kormos: Otherwise, I'm going to be dead. So are you suggesting it should be wide open? Because it's a self-taught process, the explanatory process, the arrows and the circles and the diagrams, are you saying anybody should be able to use it? I'm not challenging you to say that, but I—

Ms Braun: There should be some training provided. What level of training is in question. At Chicago's O'Hare airport, their level of training is that every hour there is a 45-second video clip on what an AED is, similar to a public PSA that could be run on TV. Do we suggest that there's some training? Yes, there should be some level of training, but what level is still to be determined.

Mr Kormos: Nobody has to watch that video, right?

Ms Braun: Right.

Mr Kormos: I hear what you're saying. So there should be some chart or diagram, but you're not saying that somebody should have to be four-hour trained before they have any right to administer that defibrillation shock.

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Ms Braun: We do suggest that people go through a training course, yes.

Mr Kormos: You wouldn't agree with the O'Hare model, which has a videotape?

Ms Braun: Personally, I think the O'Hare model is great, but—

Mr Kormos: Then why aren't you advocating it?

Ms Braun: —are we ready for that in Canada yet? It's a new program in Canada, and we're looking at it being more widespread than in one contained building.

Mr Beaubien: I agree with you. As the previous presenter stated, everybody likes the concept. I think it's very difficult to talk against the concept. But I'm glad to see that we're starting to dwell on the liability issue, because if you recall yesterday, we had a plethora of training, no training, or anybody can use these paddles.

Mr Kormos: I'm a lawyer. I like liability.

Mr Beaubien: That's right, I know. We'd really give you a lot of business.

This is what I was trying to convey yesterday, that nobody has come up with a plan as to what level of training or what kind of training. Yesterday we heard presenters saying anybody can give this, from grade 6 to anybody.

Mr Braun: My four-year-old daughter did it—

Mr Beaubien: That's right. Yet I also heard yesterday that even though the machine is fairly foolproof, if you have a radio transmitter within six feet of the equipment, it can play havoc with the equipment.

Ms Braun: That's hasn't been completely shown—

Mr Beaubien: The evidence was given to us yesterday at least. Consequently, I'm glad to see that we're dwelling on this, and I'm glad, Mr Kormos, that you requested that legislative research give us a report on this.

Ms Braun: If I can just bring up a point, when CPR first came out, there was the whole question of liability as well, and there were the risk factors involved with CPR. That was dealt with mostly across Canada by a Good Samaritan Act, and Ontario has just regulated one. The idea of the Good Samaritan Act was to take the liability away from the people who were trying to save lives.

Mr Colle: I just have a couple of comments. I think you've hit the proverbial nail on the head. It was the same sort of people back in the 1960s, with their heads in the sand, who had these dire warnings, "If you apply CPR, you're going to break people's rib cages; you're going to get infected. Don't use CPR; it should only be a doctor." I'm sure it's the same people in the Ministry of Health saying all these negative things about defibrillator programs. They were saying the same things then because they basically don't want to accept change. They're going to be the last ones, kicking and screaming, and they're going to have 100 excuses. Meanwhile, your experience as a trainer is that this is critical to saving a life.

Ms Braun: It is the most critical step in the chain of survival.

Mr Colle: If it's most critical, what do you think we have to do to basically get the old head-in-the-sand types to get over their fixation that this should only be done by doctors?

Ms Braun: I think it's to look at the models that are already out there and how effective they've become and look at the difference in the survival rate. When it comes down to the dollar—and I think Mr Kormos brought that up—what about these small communities that can't afford this? Then I ask, when the ambulance arrives eight minutes later, or 10 or 12 minutes later, and brings this person back but not in the state that an original shock in the first minute would have done, how much does it cost per day for the person to be hospitalized and under medical care when you look at months of rehabilitation, compared to the person who could walk out of the hospital three days later?

The Chair: Thank you, Ms Braun.

AED MEDICAL-SAFETY CORP

The Chair: Our next delegation, AED Medical corporation, has agreed to come forward. We're a few minutes early, which is good. Come forward and have a chair, sir. It's good to see you here. Just give us your name, please, for the Hansard recording.

Mr Greg Birtch: Greg Birtch from AED Medical. I'm going to be quite short with all this because I think yesterday you guys and ladies were in Toronto and heard everyone talking about somewhat the same thing, that these devices definitely do save lives and it's a great idea. What I wanted to bring forward was the fact that acquisition is a small part of this whole program. It's one small piece of the pie. There's ongoing training, ongoing maintenance with these devices.

I guess what I want to say, which I'm sure everyone is aware of, is that the acquisition is probably the easiest part of these programs. There's continual training. The city of Toronto is looking at doing training every 90 days as part of their program, and it becomes a logistical nightmare. Pad replacement every two years; where those devices actually are when you get into large numbers. If there's a recall on any of these devices, how do you track all of this? What I just wanted to bring forward was the fact that the acquisition is probably the easiest part; it's the ongoing training and the costs associated with that.

It's fairly short but I'm sure that you guys are aware of that, and that's what I just wanted to bring forward.

The Chair: Thank you, Mr Birtch. We have members of all three parties here and this gives us a fair bit of time for comments or questions, if anyone needs the time.

Mrs Tina R. Molinari (Thornhill): Thank you very much for coming this morning and thanks for leaving us a considerable amount of time to get into some discussion. Now, I'm not familiar AED Medical corporation. Could you just tell me a little bit about it?

Mr Birtch: We provide on-line training for different medical products or medical devices and just basically track individual students. So people can provide on-line learning. Particularly with this, what we do is deliver about 75% of the content on-line. What we're hoping is to get rid of that traditional style of training to try to keep up with where the students actually are. In sitting and

dealing with the city of Toronto at this point, what we have found and what tends to be a problem with a lot of these programs is tracking students. They're fairly transient. Whether it's security guards that are being trained or whoever, it's fairly transient employment. The way that jobs are right now, people coming in and out of business or losing their jobs, you have no idea where half of these people are.

Basically what we do is provide hospitals or manufacturers with on-line training for their medical devices and deliver as much content as possible up front, and there's still a practical application to the delivery of the training. What it does is free up work time so people can train at home on their own, rather than sitting in a classroom—you know, if a meeting is coming up, there's a loss of productivity. It's just an alternative way to provide training.

Mrs Molinari: You mentioned in your presentation that the acquisition of the defibrillators is an easy—

Mr Birtch: Is probably the easiest part of the whole implementation, buying these. There are about four manufacturers out there right now that pretty much all do the same and they'll sell you on each one of their own benefits. But I think the true pain comes in in the true implementation of these devices. It's not an easy program to deliver. In fact, if you took the room here, for instance, people would have meetings the day of the scheduled training. Maybe someone does not have this position in six months, or where are those people in six months?

I don't want to get into costs, but pad replacement every couple of years because the pads expire every two years; batteries expire usually in five years. So the whole tracking method of all of these, to know exactly where the devices are, becomes an issue.

Mrs Molinari: In our discussions yesterday with presenters, one of the concerns that I kept raising was that as much as this is a good thing and it will save lives, and we all acknowledge that, I think there is also the other component: if used improperly, are there dangers to someone using it? Because a machine is a machine, but you need an individual to push that button.

Mr Birtch: Right.

Mrs Molinari: What we heard yesterday from a number of presenters was that it's absolutely safe and there is no way that anything can go wrong with it, but I have a lot of concerns around those types of comments. You being involved in training, can you talk a little bit about the importance of having a trained individual? We don't have necessarily any fatalities on this issue. It's because up until now—

Mr Birtch: There have been people trained, right.

Mrs Molinari: —there have been people trained to use it, so it's understandable that it would be used in the proper way. What would happen with someone who's not trained to be able to use it? What would some of the risks be to an individual using it?

Mr Birtch: As far as I know about all the machines, you can't shock somebody who doesn't need to be shocked. If somebody was to put it on somebody who

had a heart rate, it's not going to shock them; it's only going to shock them if—

Mrs Molinari: What about the pulse? I'm confused about the whole issue and I'm trying to understand this, because this is all new to me.

Mr Birtch: There's a couple of rhythms that the device will shock in, which I'm sure you heard yesterday. I don't know what you heard yesterday but—

Mrs Molinari: But the pulse is the one that I'm still concerned—

Mr Birtch: You won't have a pulse, and the device will pick the shockable rhythm up. So you're counting on basically a \$6,000 medical device and your technology that's built into that to detect that as well. If somebody actually tries to find a pulse and they don't find a pulse, they should hook the device up and the machine will then decide whether or not it's a shockable rhythm.

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Mrs Molinari: But are there different periods of time when even a machine wouldn't be able to pick up the pulse; it would need to be the individual who would need to be able to pick up a pulse?

Mr Birtch: No, not according any of the manufacturers.

Mr Patten: I'll go along the same lines as the previous member was talking. Your company is in the business of training.

Mr Birtch: Right.

Mr Patten: I don't know if it's my authority complex, but I always find established organizations, especially the medical profession, are very reluctant to pass over things that historically, after the fact, people just kind of laugh at. They say, "This is a bit of a joke."

Mr Birtch: Right.

Mr Patten: Of course—and I throw this out somewhat in an advocacy way to you—the training for this seems to me, just this component—

Mr Birtch: Just the training component?

Mr Patten: —just the training component, is pretty straightforward. So the question is, you've got to have some training rather than no training, because there are three risks or four risks or whatever they are. It seems to me, on one poster beside where this machine is, if somebody can read—and it can be done in three or four languages or whatever it is. Follow this first step, the worry about other electrical or electronic devices that may interfere. Well, fine, that can be an instruction: anybody with a cell phone or whatever it is, vacate the area. The instructions, diagrams, visuals and the machine itself—we've heard testimony that some children, as a matter of fact—

Mr Birtch: Sure, they've done studies with grade 6 kids. They can put them on as quick as—

Mr Patten: So I would ask you, what would be your ideal, in spite of having an investment in training, and I respect that—

Mr Birtch: Right, and I understand the question, just for that reason. Typically, the training could be as little as, I think someone mentioned, the O'Hare model. They

play a video every hour and if you can speak English or, depending on—you know, I guess here in Ottawa we're sort of different from probably anywhere else in the world because of the bilingual issue. To date, most of these devices are in one language. So whether it's Mandarin Chinese or English or French, if somebody turns the device on and follows the instructions, they should be able to use this device.

This is an issue that comes up all the time. Heart and Stoke, which tends to be the governing body with a lot of this or sets the standards at least for a lot of medical devices have guidelines. Their idea is four hours' worth of training. Do you need to know what an SA node is in a heart if there's a security guard? Not really, but maybe somebody, if they're using them then in the hospital, like nurses—they're not being used in hospitals now. So it's a flip-flop issue for sure. Is 10 minutes' worth of training fine? Yes, for some people it probably could be. It comes down to that issue of, how much knowledge does somebody really need to use the device?

Mr Colle: Just a question, Greg: do you think it's more difficult to train people with AED use or with CPR?

Mr Birtch: CPR is probably more difficult.

Mr Colle: Please emphasize that, because people think that this is all of a sudden so dangerous and complicated, and meanwhile CPR, relatively speaking, is extremely—and this is why the old head-in-the-sand people said, "Don't use CPR." Now here's something that's easier and it's smarter. You're talking about pulse rate; this will detect that pulse rate.

Mr Birtch: Right. You're basically putting your trust in the technology that's been built around all of this.

Mr Colle: Could you just explain the difficulty with pulse rates and finding them?

Mr Birtch: Even professionals have a hard time. I was a professional firefighter for 17 years and sometimes it's difficult to find a pulse. If you don't, you then put the device on. The technology is there to—

Mr Colle: I just challenge all the members of this committee, try to find your pulse rate.

Mr Beaubien: I check it every morning.

Mr Colle: I sometimes wonder.

You mentioned that this is part of the chain of training. I think what you're offering here is something that really helps the private sector or the public sector, whatever it is, because you can do this training on-line.

Mr Birtch: It's just an alternative way to provide training if people did want to—and I think, again, the implementation is great and I don't think you'll have anyone in the room deny that these devices are going to save lives, but there are the issues of the implementation of these programs.

Mr Colle: But you have that ongoing monitoring program—

Mr Birtch: Just to find out where the devices actually are—we were in New York City last week with the people there who have purchased a thousand of these devices, and they don't know where to begin. Who's

going to be trained? First of all, how do you possibly train 20,000 people to use these? Do you just set them loose? My concern is to make everyone aware of the implementation of these devices. The acquisition will be the easiest thing you do on these. It's a difficulty—

Mr Colle: And then you put it in line with the people who are already trained on CPR and other first aid things.

Mr Birtch: That's the guideline usually. I'm sure most of the training agencies combine the two. Level A—basic CPR or adult CPR—and the device go hand in hand.

Mr Colle: Yes, because you're not just training people on this device. Usually the people who are being trained are being trained in all—

Mr Birtch: They should know CPR to go along with this device. Basically what CPR does is prolong the chance of somebody being defibrillated.

Mr Colle: Those training programs are already going on for people who are in first aid, so this would be part of that chain of training.

Mr Birtch: Right. It becomes that whole chain of survival. It has been added in as one of the heart-stroke links in their chain of survival.

Mr Kormos: I put it to you that the vast majority of Ontarians have very little, if any, first aid training.

Mr Birtch: Correct, or they forget it. I think it's proven that in three weeks they forget it.

Mr Kormos: As young people in any number of organizations, be it Air Cadets, Boy Scouts, Girl Guides, that sort of thing; perhaps in the workplace through any number of initiatives, depending upon what your job is; obviously if you're a security guard, police officer, firefighter, paramedic.

Mr Birtch: Right.

Mr Kormos: And you're in the training business. I was just reading about the paucity of CPR familiarity in the province or in Canada. One of the concerns has been who should be able to access these machines. We've heard everything from one end to the other, as you heard before, some people saying that even I, with my limited skills—

Mr Birtch: Bottom line: if someone is not defibrillated, they're going to die, so—

Mr Kormos: —could apply that machine, with no training whatsoever. Others are arguing we have to have some minimal level of certifiable training right across the spectrum. Where do you stand on that? Should the law be that even the most inept person—myself—would be able to apply that machine to somebody in a shopping plaza?

Mr Birtch: I think time will tell on all that, because if you do—no one has turned this over to that extent in any of the PAD programs that are out there. I don't think anyone has just gone, "These things on a wall: feel free to use it."

Mr Kormos: The bill as it stands now says that.

Mr Birtch: Right.

Mr Kormos: And that's consistent with some of the stuff we've heard, that a complete novice can read the charts and follow—

Mr Birtch: Absolutely. If somebody can read or speak English or French—that's what I said earlier—and understands it, are they going to do any more harm than already has been done? Probably not, and I'm not a medical professional that way.

Mr Kormos: So what are you saying? Are you supporting that position?

Mr Birtch: I think there should be some form of learning. That goes with a PalmPilot or anything else like that.

Mr Kormos: Mr Birtch, for whatever reason I've had no interest in learning anything about this machine that's on the Seaway Mall wall in Welland. I'm in the Seaway Mall going to the bank, paying down my credit cards. Somebody I don't know collapses there. I think, "Yikes, there's the machine." Should I be able to use that machine?

Mr Birtch: Sure.

Mr Kormos: OK, that's fair enough.

Interjection.

Mr Kormos: Well, I don't know. That's a different scenario, right? I do my incompetent best, like I do on a daily basis with so many things.

The Chair: We wish to thank you, Mr Birtch.

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CHRISTIAN VAILLANCOURT

The Chair: I wish to call forward Christian Vaillancourt. Have a chair, sir. As a presentation by an individual, you have 10 minutes.

Dr Christian Vaillancourt: Good morning and thank you for inviting me to speak at the hearings this morning.

I'm actually Dr Vaillancourt. I'm a specialist in emergency medicine. I'm also a clinical researcher. I have access to a database of information on cardiac arrest on more than 9,000 cases across 21 communities in Ontario over the past five years. I'm here today to try to share some of that knowledge with you.

With regard to Bill 51, current survival of cardiac arrest in Ontario is approximately 5%. Out of 100 persons who collapse, less than five will actually be discharged from the hospital alive. Defibrillators are great machines. Basically they are great at saving lives, and that's why we equip most of the ambulances, firefighters and some police cars with them. We also know that, as was mentioned, the earlier the defibrillation occurs, the more chance we have to actually save lives. So the thought process behind Bill 51, I assume, is that if citizens would have access to those machines, defibrillation could be achieved faster and more lives could be saved.

A recent study nicknamed the "casino trial" is actually one of the largest trials that have been ongoing. You've probably heard about it. It was done in Arizona, where they trained security personnel to deliver and use those machines, basically non-medical personnel, and they did so in about 100 cases. They had great success both in using the devices and in saving more lives. So I'm not

one of those doctors who would basically preclude anybody from the population from using the devices. I think that if they could, it would be great.

Having said that, we have to understand the process a little bit more and whether or not this could be reproduced at the community level. One of the authors of the casino trial, for instance, has some training in health economics and performed an economic analysis of the cost of caring for cardiac arrest patients. I don't want to mention costs here in the matter of saving lives, but it is a concern when we have to deal with public bills. No matter what the outcome is, basically whether a person dies or not, the current cost of caring for a patient with cardiac arrest is approximately \$6,000. If we implemented a public access defibrillation program, he estimated that the cost per life, per person, could be increased to up to \$50,000. That's including material, training—I'm not the health economist, but that's an estimation he came up with.

That paper was published in *Circulation*, the previous one, and in the *New England Journal of Medicine*. They are both really highly respected journals.

Furthermore, although the results of the casino trial were promising, we lack information on the potential impact of a public access defibrillation program at the community level, as I mentioned before.

Having said that, there is currently an international study taking place in 24 communities across North America. This is called the PAD trial, and this should be able to tell us the impact of such a program on the community. Why don't we just wait for the results?

The greatest impediment to a public access defibrillation program comes from the fact that most cardiac arrests do not occur in public places. We looked at almost 1,400 cases of cardiac arrest in the region of Ottawa over a five-year period. Basically, our findings were that 85% of cardiac arrests occur in private homes, 10% on the street, and less than 5% of them in large public places. Again, there is a larger study currently underway in which I am involved looking for the same information in 21 communities across Ontario.

In addition, those people suffering from cardiac arrest in public places are not all going to be helped by defibrillators. In order for the machines to be helpful, we need at least some kind of electrical activity going on with the heart. You need fibrillation; you need ventricular tachycardia. From the database we have of cardiac arrests in Ontario, almost two thirds of cardiac arrest cases were in asystole. Basically, they had a flat line on the cardiac monitor when we applied the cardiac monitor. Those patients will not be helped by defibrillation, by the delivery of an electrical shock, and they will not be helped by a public access defibrillation program. Therefore, we estimate that potentially less than 3% of all cardiac arrest cases in Ontario could benefit from a public access defibrillation program, and we think such an endeavour may not produce the impact on survival that we expect out of it at this point.

On the other hand, I asked the Heart and Stroke Foundation about six years ago what percentage of the

Canadian population knew how to perform basic life support, the CPR that we've been talking about so far. The answer to that was less than 3%. I asked again recently, six years later, hoping that things would have changed, and it's still 3%. Once again, we know from our database that nine times out of 10, precisely 8.5 times out of 10, when the emergency services arrive at the scene of a cardiac arrest, nobody has been doing anything. They had their hands crossed waiting for them to arrive. Yet we know that people who receive CPR are three times more likely to survive their cardiac arrest than the ones who don't.

One of my colleagues developed an accurate mathematical model looking at what could be the survival rate of cardiac arrest if in at least 50% of the time, half the time, someone performed CPR before the emergency services arrived. If that was the case, survival of cardiac arrest could improve from the current 5% to over 30%. We have to keep in mind that the success of such an intervention would basically be applied to all cases of cardiac arrest, not only the few that occur in public places.

We also know that cities like, for instance, Seattle/King County and Singapore have been successful in implementing such a community-based CPR program that resulted in increased survival of cardiac arrest.

I am also currently involved in a study looking at developing an intervention best suited for the Canadian population, with the goal of increasing bystander CPR and survival of cardiac arrest, basically trying to look for why we still have to deal with only 3% of the population knowing CPR, whereas somewhere else things have been successful.

In summary, at this point I believe that a public access defibrillation program is premature. Its effectiveness in saving lives is currently under evaluation by a large international trial called the PAD trial. It may not be cost-effective, although this might not be a popular comment, and we estimate that less than 3% of all cardiac arrests could benefit from such an intervention.

We have to understand that you may be under tremendous public pressure to push such a bill forward, but I think this is the time to be strong and perhaps hold the horses until we actually get the information we need to push the bill forward. I thank you for your attention and I welcome any questions.

The Chair: Thank you, Dr Vaillancourt. We have about one minute for each—

Mr Kormos: Chair, this guy is pretty smart; he's done a lot of research. I'm wondering if there's unanimous consent, well ahead of time, to give us maybe three minutes per caucus.

The Chair: Permission of the committee? Yes, that would be fine, three minutes, and we'll begin with the Liberal Party in rotation.

Mr Colle: You're a doctor here in Ottawa?

Dr Vaillancourt: Yes.

Mr Colle: And what is your specialty?

Dr Vaillancourt: I'm an emergency medicine specialist.

Mr Colle: At the civic hospital here?

Dr Vaillancourt: Yes.

Mr Patten: Ottawa Hospital.

Mr Colle: Ottawa Hospital it's called. Could you leave that research with us, or a copy of it later on, that you quoted from?

Dr Vaillancourt: You have all the references on the bottom of your handout. There are seven of them.

Mr Colle: OK. We could get that.

Dr Vaillancourt: Yes.

Mr Colle: I guess you're saying don't do anything, it's premature.

Dr Vaillancourt: The bottom line is that there's no denying that the machines work. If you look at the chain of survival, because it's been mentioned often, of course, so far we think that the strongest link is defibrillation, but the weakest link right now is the CPR. I don't deny that defibrillation works and the reason why CPR is useful is basically it's getting the time until the machine actually is applied, and it even makes it more successful.

The only problem we see with it is that if you're looking at a policy that's going to cost something to the population, is it going to be the best bang for the buck? People seem to think that most cardiac arrests occur in public places, whereas what we are bringing to the table today is that it's a minimal amount of them. If you look at the Ottawa region alone, we've had about 1,400 cardiac arrests over a five-year period. If you look at 5% of them being in public places, not all of which could be helped by a defibrillator, we're talking about perhaps eight to 10 persons per year in the whole region of Ottawa that could be helped by such a program.

Mr Colle: You mentioned that where we have the most succinct type of research, the most direct, is in the casinos, in Las Vegas and in Windsor.

Dr Vaillancourt: Yes.

Mr Colle: If you've got evidence where there's direct access to portable defibrillators right there and that the survival rate jumps by 60%—

Dr Vaillancourt: A relative increase, yes.

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Mr Colle: —yes, 60%, don't you think it's pretty indicative of the fact that if you've got this kind of success rate—from five out of 100 to 60 out of 100—that might be telling you it's worth perhaps over the next three years examining locations throughout cities where access to these defibrillators might save those lives and dramatically increase that? That's what I'm saying. There's an example, clear cut. I'm saying let's find out where these similar-type locations might be. If we can get that kind of survival rate jumped up so dramatically—because they're all one minute away in the Windsor Casino, one minute away at O'Hare airport, one minute away in the Woodbine Casino in Toronto, where we've had the most direct studies. Isn't that the reason why the American government just passed legislation to have them in all rural communities in the United States and isn't that why the Federal Aviation Administration

mandated that every airplane that flies out of US airports carry a defibrillator?

Dr Vaillancourt: If you'll allow me to answer that, first of all, I have two comments. There is a difference in medical research between relative and absolute increase or improvement, and the 60% that you mentioned is a relative increase. So it's 60% of the already poor survival. It's not 60 out of 100 that basically survive; it's a 60% increase in the already low survival, for one.

Two, basically the absolute survival in the casino trial was closer to 30%, which is still great. That is basically also if the machine is applied within three minutes. I don't know how long it takes to actually read a board before you can apply the machine, but if you can achieve it within three minutes you can, at best, have 30% survival, which is great.

To answer your second point on whether or not we should do that on a broad basis, just keep in mind that you will have a tremendous improvement in survival in less than 3% of all cardiac arrest cases. Is that worth it?

Mr Colle: You're saying it isn't. We disagree.

Dr Vaillancourt: I'm saying everything is worth it when it comes to saving lives. I'm talking about if you have millions of dollars to spend, are you going to be spending it on this program or on another program that's going to benefit all cases of cardiac arrest and that also has been proven to increase their survival rate to probably about the same thing as this thing would achieve for only a small percentage of the population?

Mr Kormos: I was told the other day from very good sources that rich people—rich men—who have had heart problems buy these machines for their houses, and one obese, expatriate former newspaper magnate owns several. But again, he has to count on Barbara to push the button. Depending upon the pre-nup, that may or may not happen.

What bothers me is that down where I come from I've got a seniors' building, which is all seniors. I've got the seniors' centre. Is there any rationale for prioritizing or identifying groups? I appreciate all your statistical analysis of the casino, and that sort of downplays the dramatic numbers, but fair enough. But is there any rationale for saying that in my seniors' centre down in Thorold or Welland, where you've got, I presume, a higher-risk profile, one of these units with some trained people would be—you see, what I resent is that those rich guys can have half a dozen of these in their homes—

Mr Beaubien: What kind of car do you drive?

Mr Kormos: A Chevy pickup—and yet my seniors down at the seniors' centre have to wait for an already overloaded ambulance system that's being stretched thin because of the provincial downloading on to the municipalities. So do you understand where I'm coming from? I resent the fact that these rich guys have half a dozen, yet a group of 200 good, hard-working senior retirees have none in their seniors' centre. How do I resolve that based on what you have got to say here?

Dr Vaillancourt: Seniors' centres are considered public places, so as far as percentage of people who have

their cardiac arrests in public places, they still fall into the same range. I may have to suggest also that most seniors' centres are in the vicinity of a major hospital and that the emergency medical systems are usually able to get to them within the appropriate time. Having said that, we know that the earlier the defibrillation is, the better it would be. I'm not sure I can exactly answer that question, but yes, it—

Mr Kormos: Your three-minute time frame, you're talking about being shocked within three minutes in the absence of CPR.

Dr Vaillancourt: Yes.

Mr Kormos: OK. We've heard some people say that CPR is no longer a factor. We've actually heard that. The idea is to administer the joules promptly. Then we've heard from the other end of the spectrum that CPR is still very much a partner, at least an equal partner, in the whole process.

You're saying—

Dr Vaillancourt: The current response time for a cardiac arrest call is probably about seven to eight minutes. When nothing is done in that time before the defibrillation actually occurs, we know that survival decreases, and whenever people have actually been able to perform CPR, the survival increases. Basically what CPR does is that it gives at least a minimal amount of oxygen to the heart and it makes the defibrillation that much more effective.

If we could have those defibrillators nearby in all the vicinities, everywhere where cardiac arrest occurs, and you could apply them directly, there would probably not be a need for CPR if you can do it within three minutes. That would be the best intervention there is. That's assuming that everybody has their cardiac arrest in a mall or in a public place, which is not the case, unfortunately.

Mr Kormos: No, and I understand that. So you're arguing that that same amount of money—is this CPR versus PAD for you—

Dr Vaillancourt: No.

Mr Kormos: —in terms of, let's say, investing the money on CPR training for the general public?

Dr Vaillancourt: If you want to look at it this way, if you have the resources to supply and support both programs, I would say go ahead, because this would be the best thing we could do. The few people who are having their cardiac arrests in public places would benefit greatly from such a program. What I'm saying is that if you're looking for one intervention that would give you the biggest bang for your buck, it would probably not be this. I'd just want to make sure that people understand that if you go ahead with this program, it's not going to benefit 100% of people with their cardiac arrests; it's going to be an intervention aimed at less than 5%, and more probably 3%, of the cases.

Mr Kormos: I'd like to see the staffing of nurses return to local hospitals where I come from and emergency rooms supplemented, along with all this. The money is there, except the tax breaks take it out of the

health care system. It's choices. The tax cuts take money out of the health care system. It's a matter of priorities.

Mr Beaubien: I don't really have a question; I've got some observations here. Yesterday, Dr Verbeek mentioned that he questioned the definition in the bill of "perceived medical emergency." He had a lot of problem with the definition. Also, Dr Dreyer, who's the chair of the Ontario Medical Association section on emergency medicine, stated:

"According to OPALS data, it can be estimated that of the estimated 6,500 cardiac arrests occurring annually in Ontario, only about 90% are cardiac arrests occurring as a result of a cardiac cause."

Of the remainder, "only about 50% are witnessed arrests." I think the word "witnessed" is very key here. This leaves a total of approximately 3,000 cardiac arrests which are witnessed cardiac arrests which may be responsive to early defibrillation. Of these, 20% will be witnessed by paramedic crews, leaving approximately 2,400 cases. Further recognizing that approximately 80% of these cases occur in private residences or nursing homes, there remain only approximately 500 cases in the province of Ontario each year that could potentially benefit from the widespread introduction of PAD programs. Very interesting statistics.

Furthermore, the bill stipulates in section 2, "Privately owned buildings to which the public has general access." That could mean every 7-Eleven or Mac's milk store on the corner or any building that has public access. Yet when you look at the statistics given to us by the medical profession—and don't get me wrong; I don't always agree with what the OMA or medical practitioners have to say—the chair of the OMA emergency department stipulated that yesterday and Dr Vaillancourt this morning stipulated the same thing. Dr Verbeek had difficulties with the definition we're using in the bill.

I think as Dr Vaillancourt mentioned this morning and as the previous presenters have stated, everybody likes the concept. It is a motherhood issue. But I think we have to proceed very carefully in this matter, because it's kind of nice—as Mr Kormos said, we can try to make political hay out of this thing, but somebody warned us yesterday, and I can't remember which individual, that this is not a political issue; this is a health care issue.

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Dr Vaillancourt: Maybe one last finishing comment: there is an international trial underway that will give you the answer. It is looking at exactly what we are trying to establish here, a public access defibrillation program. They will come with numbers. They will give you how many more lives were saved and the cost of it all, and you should be able to take a decision when that study is over.

Mr Patten: What's the ETA on that?

Dr Vaillancourt: It's been ongoing since last summer. I'm assuming it's probably going to be another year or two. I can't speak for those people, unfortunately, but that's approximately the time I would say it would take.

The Chair: Thank you, Dr Vaillancourt. We appreciate that.

We have a group that is ready to present. We're running a little bit ahead of time. For the record, I'll just check to make sure. Centre Pauline-Charron? I know we're early. They're not here yet. Active Canadian Emergency Training Inc is not here.

MEDTRONIC OF CANADA LTD

The Chair: We do have a group that will come forward, Medtronic of Canada. Have a chair, sir, and we'll hear your presentation. We have 20 minutes, and if you could give us your name for the Hansard recording.

Mr Steve Ellis: My name is Steve Ellis. I am the sales and marketing manager of Medtronic of Canada, the Physio-Control division of Medtronic.

Just a little bit about Medtronic: we are the largest manufacturer of defibrillators in the world, supplying to paramedic systems, for ambulances and fire trucks, as well as to hospitals and in public access defibrillation and targeted first responder programs. We also make implantable defibrillators. You saw some of the press on Dick Cheney's implantable defibrillator and that's an example of one of our products. So we have a really good knowledge of how effective these things are.

My background is as a critical care paramedic in a previous life and I function now in involvement in most of the public access defib programs. I've been very much involved in Canada and am very familiar with many of them throughout the world that have been initiated.

I've actually put a little bit of a change to my presentation after hearing some of the information that was presented yesterday. I think probably the best thing I can do is offer myself and to try and address some of the issues that don't seem very clear, from what I've heard this morning, as well as perhaps answer some of your questions on some issues. I think some things are being stated as fact and some are being stated as probably a little bit misrepresented, so perhaps I can clear up some of that stuff.

First of all, I'd just like to say that I and this company very much support Bill 51 and applaud Mr Colle and his team for driving this initiative. You've seen a similar initiative in the US in different areas, but the large one that everybody has been referring to is the Sudden Cardiac Arrest Survival Act.

Just as a matter of point, I don't think anybody questions, or I hope they don't at this point, whether defibrillation is an effective treatment. I don't think there is any physician—I know there are different opinions about the cost-effectiveness or issues on that end, but no paramedic, physician or firefighter will do anything but grab the nearest defibrillator for somebody in cardiac arrest. I think that needs to be very clear. CPR is not instead of; CPR is a stop-gap measure until a defibrillator gets there. That is the medical standard. It is one of the few things in medicine that everybody agrees on. It's just

a matter of time to getting a defibrillator and how we get them there.

We all do the same treatment. Paramedics, physicians, nurses and firefighters are all doing the same treatment. It's a matter of how much training they have to make those decisions on their own versus letting a machine decide.

The technology has improved. I should probably qualify that. For us as a company, this is our eighth generation of automated defibrillators. We brought them out many years ago but the medical community wasn't ready. It seemed kind of a crazy concept to think that somebody else would be shocking other than a physician. Then paramedics got trained and for nurses it's accepted, so this whole process has had a fairly good education to it to realize that it is not such a difficult procedure to do.

The machines have definitely become easier to use and there's very little question at this point as to their safety. I can qualify that by saying that we have 80,000 of those automated defibrillators just in the Lifepak 500 form, which is the one we use for public access defibrillation, out throughout the world. They are not new; they've been on the market for several years. They are used by firefighters and police officers and they are being used in public access areas by the lay public, and people are not getting shocked who shouldn't be shocked. If anything, what's happening is that if the training and implementation hasn't been appropriate or if somebody freezes, you're just no further ahead than you are now, which means you've caused no further harm. You've just basically lost an opportunity or delayed an opportunity to save a life.

Time to defibrillation is everything. That is the one concept that everybody agrees on. So the question here, I believe, is not whether we should or should not encourage the use of defibrillators; it's just a matter of how we practically get these things to people who are victims of sudden cardiac arrest.

One of the problems we're all aware of is that sudden cardiac arrest strikes anyone, anywhere, any time, so that puts everybody in this room at risk right now. The single treatment is defibrillation.

I heard some general statements about response times. I would question those. Response time to the scene and response time to a patient are different and there are studies that have proven that. As soon as you have to enter public buildings or go into high-rise buildings, those response times can increase drastically. This city is a great example where survival rates were approximately 2% when looked at last year. Less than 5% is what's quoted in terms of generally out in the community, where survival rates are pretty poor.

We already know—the science is very clear—that if you get defibrillators to people quickly their chance of survival is much better than that, and the casinos are by far the clearest study of that. We have the same issues in hospital. We now put automated defibrillators in hospitals so that the nurse on the floor can defibrillate, because they don't want to wait the extra three minutes for the cardiac arrest team to arrive. As I said, this is a

proven concept and I don't think any physician or anybody representing is questioning that. I hope that's clear. If it's not, please feel free to question me and I can explain further.

It comes down to, where do these cardiac arrests occur and are ambulances and fire departments quick enough to respond? If they were, we would be seeing much better survival rates. We would see survival rates like 55%. I have trouble understanding, and perhaps I missed part of it, but the previous gentleman who spoke and talked about relative survival rates, those statistics from the casino are 55% survival rates. That means if you have a cardiac arrest, you have a 55% chance of being resuscitated and leaving the hospital with your brain and functions still intact. That's another important piece of this, because we can still get defibrillators to people and get their pulse back, and by some statistics and studies people qualify that as a save, but that doesn't mean much to most of us. The question of whether they still have brain function and can lead a normal life is a very important one too. You might get the defibrillator there in six or seven minutes, but if you can get the defibrillator there in two or three minutes it's that much better.

There is very clear information stated in the American Heart Association, which is the governing body for this. There is a great deal of research and there are experts who spend a lot of resources and time to develop these standards, and they're evolving, but very clearly the statements in here say that early defibrillation is key. We want to get defibrillators to people in less than five minutes.

I want to address just a couple of issues. First of all, I've heard back and forth about pulse checks versus defibrillator and perhaps I can address that. Defibrillators don't assess pulses. They don't measure pulse rates and they don't tell you if you have a pulse or not; that is, the mechanical pumping of the blood from your heart. They assess the electrical activity of your heart. The American Heart Association has now changed the guidelines as of last year that for people who don't have a pulse or even—the pulse check is actually somewhat optional. I don't want to get too much into detail, but if somebody looks dead, they probably are dead, is kind of the rationale behind that. So people are starting CPR now without pulse checks, because it's not a good indicator, based on how effective people are in taking pulses.

Automated defibrillators, on the other hand—and I think I can speak probably for all manufacturers—are very good at assessing if somebody is in cardiac arrest. There are also safety mechanisms in place, motion detection systems, so that if there is any movement—and frankly that's more to protect the responder or people walking around who might touch the patient—that will not let you shock if there is movement. We have all different ways of going about that across the different manufacturers.

The truth is nobody is being shocked who shouldn't be shocked. It's not happening. We are saving a lot of lives.

Frankly, we've been a little bit slow to adapt in Canada. Alberta has been by far the most progressive in this area. There are numerous programs throughout the US and Europe and very targeted areas like airlines and casinos which have been identified. Shopping centres are a great target. We've identified that in terms of public places there is a fairly reasonable—we talk about the top five, so shopping centres and high-rise buildings are all good places to put defibrillators.

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I've also heard some details about the OPALS data, the Ontario Prehospital Advanced Life Support data. I'm fairly familiar with this stuff because I work with all the EMS systems across the province. We have to be careful in terms of interpreting that data. As we get too deep into statistical analysis, it kind of loses a bit of the practicality.

Some 5% of cardiac arrests are not happening in public places, is that what I heard? I'm sorry if I missed—I understood somebody mentioned that. Most EMS systems across North America have similar demographics. We're looking more closely at the 20% to 25% of cardiac arrests occurring in more public places. That number is expected to increase and the number of cardiac arrests is expected to increase. The statistical use is approximately one per thousand in the population per year. So again, it's a bit of a statistical issue.

Back to the practicality, how do we get to those people? We're talking about 22,000 to 30,000-plus sudden cardiac arrests in Canada per year. That's a lot of people we potentially could be saving.

The other piece of this is that as we implement AED programs, there comes a much higher awareness and level of training and recognition of the need to do CPR, to recognize people with chest pain and to call 911 earlier. All of these spinoffs are really important. We've had no shortage of programs—EMS systems and ambulance services—that have taken a very good initiative in trying to promote CPR. They have been phenomenally unsuccessful in most areas because people aren't interested necessarily in doing CPR and, frankly, CPR alone does not save lives. You need the other pieces in there. So it's not either/or; it's both together.

Once again, it's back to how we get the defibrillators to those people. Can we predict where those cardiac arrests are going to occur? Certainly we have good indications as to where the most common areas are, and that's where the most people are, and as people age, that increases in incidence.

Fire departments: there are some fire departments that are doing a good job and improving response times.

Police programs: there is only one in Canada, right here in Ottawa. They just recently implemented it, so it's pretty hard to determine how effective it is at this point, but frankly, the more defibrillators out there, the better chance every one of us—family members and everybody else—has of surviving a sudden cardiac arrest.

I hope that clears up the pulse issue and the CPR versus the defibrillator. If you have any questions, please feel free to interrupt me at any time.

The Chair: Mr Ellis, we've got about a minute and a half for each party. We'll begin with the NDP.

Mr Kormos: It's day 2. You distribute or sell which piece?

Mr Ellis: Medtronic Physio-Control. We're the manufacturer.

Mr Kormos: Where are they manufactured?

Mr Ellis: Redmond, Washington, is our manufacturing site.

Mr Kormos: And it's manufactured by Medtronic?

Mr Ellis: Correct.

Mr Kormos: And it's one of, what, four brands of defibrillators available in Ontario, Canada?

Mr Ellis: There seem to be a few more coming out these days that are just getting licensing—

Mr Kormos: One is Norwegian-based, one is Hewlett-Packard. OK.

You and your colleagues from similar businesses talk about cardiac arrest or fibrillation: "anyone, anywhere, any time." Then you go on to say you can't identify places where they are more appropriate but then you say it's only because there are huge numbers of people there. Other people are saying no, that there are profiles.

We saw the videotape of the 33-year-old woman who had the totally unanticipated fibrillation or cardiac arrest but, come on, isn't that a little bit of a sales pitch?

Interjection.

Mr Kormos: I've heard it with so many other—come on, that's his job. I'm not disputing it. I'm saying good, God bless you. That's your job. You've got to do that. But please, don't say anyone, anywhere, any time, when in fact other people are saying—there are guys like me and a few other people around the table here. I'm told the alderman here, smoking, drinking, staying up, we fit the profile more than anyone, anywhere, any time. Isn't that fair?

Mr Ellis: No. I fit that same profile too, so let me address that. Yes, my job is to promote and sell defibrillators. I make no bones about that. But let's separate things out here for a little bit. As you increase in age, heredity factors, diet and all those things increase the chance of having a heart attack or a stroke or a combination, or other clotting factor. A heart attack is not a cardiac arrest. A sudden cardiac arrest, although it can be from chest pain of a cardiac nature—I could be talking to you and having a heart attack. Having chest pain is an indication of a heart attack. You need to go to a hospital quickly and they try and dissolve the clot.

Mr Kormos: Am I more likely than somebody who is in far better shape and whose lifestyle is far more attractive than mine is?

Mr Ellis: To be in sudden cardiac arrest?

Mr Kormos: Yes.

Mr Ellis: Or to have a heart attack that leads to—

Mr Kormos: No, to fibrillate.

Mr Guzzo: Don't answer that until you learn about his lifestyle.

Mr Kormos: I've told you everything there is to know. Am I more likely than a 20-year-old who is physically fit?

Mr Ellis: Yes.

Mr Kormos: Of course I am. There.

The Chair: I'll go now to the PCs.

Mrs Molinari: Thank you very much for your presentation. It certainly added a perspective from a manufacturer and we appreciate your comments.

Some of the difficulty I'm having is around the safety issue of using it improperly and the training of the individuals using it. As has been stated, this bill would allow for defibrillators to be placed and for anyone to have access to them and be able to use them, without the proper training.

I'm going through the Heart and Stroke Foundation book. They talked about some of the issues around safety and also the training. One of the things that is stated in here is ensuring the safety of others who are around. Someone who is improperly trained would, in my estimation, not have the knowledge of all of the intricacies around using a defibrillator. We all agree that these save lives if used properly, but it's not a mechanism that can be used on its own without an individual who is properly trained, who knows how to use it and knows the risks around using it.

I've heard you say that the worst thing that could happen if it's not used properly is that they are no further ahead. I would ask you to consider the problems with what could happen to people around them. We've heard disparate comments about the need to check for a pulse and that the defibrillator will tell you if there's a pulse.

Mr Ellis: That's not accurate.

Mrs Molinari: Well, we're hearing different—this is why at the end of this two-day session we have to filter through this and figure out which is correct and which is accurate. My main concern is that using it improperly will cause more damage not only to the victim but to people around it. It talks about it being in an area where it's exposed to water and the dangers of that, having cell phones and mechanical things around and what could happen. Could you comment a bit on some of those dangers?

Mr Ellis: Sure, I could do that. As a manufacturer, in terms of the cell phones, the water, those are questions we get asked all the time. We do encourage training and standards of training. Frankly, you'll find most of the programs out there have some kind of tie back to the manufacturers like us, who have developed the training programs and implementation standards for these, support the training agencies and the American Heart Association and sit on these boards and make sure that the training standards make sense.

Mrs Molinari: So it's necessary for someone using it to be properly trained to use it.

Mr Ellis: Let me back up. We encourage training and we encourage a standard of training, but we also discourage overtraining because that causes a bit of a barrier. If people think they have to do 12 hours of

training every six months or four months, then they're going to be too uncomfortable to start these programs because they're going to think that they can't do it.

The reality is, whether you endorse this bill or not, the defibrillators are going up on walls in public buildings. If you walk through many airports in the US—and very shortly you will hear the same thing in airports in Canada—there are defibrillators on the walls, and going on the walls in public buildings. There are enough people out there who believe in this concept and understand how simple these defibrillators are. So they are going out there.

The reality is that we should encourage as much training as possible because you could be on that Air Canada flight, you could be walking through the airport, you could be walking through Chicago airport and somebody beside you goes into cardiac arrest, and you are the best person to shock them because you are the quickest.

The machines are so easy to use and I have no problem showing—I understand you've seen a demonstration of another device. Frankly, they are all easy to use.

Mrs Molinari: If you could go back—

The Chair: We should go to the Liberal Party now, for a minute and a half, please.

Mr Ellis: Can I finish?

Interjection.

Mrs Molinari: The question is the danger to the victim and people around. I understand what you're saying and they are all things that we've heard about the benefits, but I want specifically to know what dangers there may be to the victim or individuals around them if it's not used properly.

Mr Ellis: OK. If somebody goes into cardiac arrest, number one, we need to establish the fact that the patient is unconscious, which is a fairly obvious thing to do.

Mrs Molinari: Someone needs to establish that, an individual.

Mr Ellis: Just the fact that somebody is not moving, is lying on the ground in the middle of a public building—it's generally an easy thing to establish the fact that there's something wrong. The fact that they're not breathing is usually—if somebody is obviously trained or listens or knows to look or listen for breathing. Pulse checks we could do or not do; it's not that important. Then you put the defibrillator pads on. If there is any recognition of anything other than a rhythm that is cardiac arrest, the device isn't going to charge up.

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Mrs Molinari: Now, someone who is not properly trained, if someone has a heart monitor or something, would they know not to put a defibrillator pad in the general vicinity?

Mr Ellis: Pacemakers generally get inserted here, the pads go here. There are big pictures on the pads. We all have the same placement. It's all set. Put the heart between the two pads; it's pretty straightforward. If you have a little bit of miss, it's no big deal. If they had an

implantable device, they're dead. We can't hurt them. If anything, what will happen is we'll be less effective. We might do some damage to the device that needs to be recalibrated after. We can't hurt these people. That's why these things are happening. We could not be putting these out there and getting overwhelming support from physicians and paramedics and everybody else out there if they had any danger to them.

Mrs Molinari: Putting a pad on a device would not hurt an individual?

Mr Ellis: Correct.

Mr Colle: I'm just going to change this around. I know my colleagues on the Conservative side like to talk about the dangers, the liability, all the negative things. I would hope that we'd think about the thousands of people whose lives could be saved and that we'd be a bit more positive in examining ways of helping those people.

What I'd like to do with respect to your deputation is read into the record, considering the last deputation especially, from certainly the most prestigious medical journal in North America, what the New England Journal of Medicine reported again last year. I guess it's from the Toronto Star here:

"NEJM Reports Two Studies Proving Portable Defibrillators Save Lives When Quickly Used by Trained Non-Medical Responders; Casino Research is Largest Study to Show Survival Rate at Least 10 Times.

"Two studies reported in the current issue of the New England Journal of Medicine prove a reassuring message: persons with minimal training can successfully use simple, portable defibrillation devices in public places to save lives that might otherwise be lost to sudden cardiac arrest.

"The studies also made a key point: the devices, known as automatic external defibrillators ... must be close at hand and easily available. Data prove the validity of efforts by the American Heart Association, airlines, public safety agencies and others to increase the availability of the lifesaving AED device to trained laymen and emergency personnel wherever people gather."

I just wanted to put that on the record. Hopefully, what might help, if I can ask the permission of the Chair, is for the deputant to give us an example of how this simple machine works if you have one here. I think the more times we see it—we've got a couple of new members here. This most complicated training on an unreliable device that's going to hurt everybody—let's see it. Let's bring it out, unleash it. It's going to go into every 7-Eleven. Watch out—it's coming to the 7-Eleven near you.

Mr Ellis: Who's the biggest sceptic?

Mr Colle: Just look to your left. Not all of them.

Interjections.

Mrs Molinari: You're not going to put it on?

Mr Ellis: No, I'm not. I'm the trainer. I'm not going to shock anybody.

Mr Colle: Be careful. Be careful.

Mrs Molinari: Do it on someone who has so much faith in it.

Mr Colle: I have faith in it, that's right.

Mr Beaubien: OK, you be the guinea pig.

Mr Kormos: In that context, if you were to attach that to me while I'm conscious, what would I experience when you shock me?

Mr Colle: Nothing.

Mr Ellis: I can't shock you.

Mr Kormos: No, assuming that you're—

Mr Colle: Put it on, Peter.

Mr Kormos: No, I'm not going to, but assuming that you could, what would I experience?

Mr Beaubien: Come on, Peter, put it on.

Mr Ellis: What would you experience? An electrical shock to you that would cause movement of your body—

Mr Kormos: Convulsion?

Mr Ellis: —that potentially could stop your heart. A very short, sudden movement, but it can't shock you if you're moving.

Mrs Molinari: But it can stop your heart.

Mr Colle: No, no, no, it can't. I want to explain that.

Mr Kormos: I've been shocked in wall sockets. Is it similar to the wall socket shock?

Mr Ellis: The energy is delivered a little bit differently and it's more impact. The fact that it's here means it's concentrated to your heart.

Mr Beaubien: I feel safe because we've got a doctor in the audience.

The Chair: OK. I'm going to call for order. Hansard cannot pick up—

Mr Kormos: That's OK, but I wanted to know.

The Chair: We'll ask for the demonstration.

Interjections.

Mr Ellis: My pleasure. This is a trainer device. I have a little remote control here. But somebody is in cardiac arrest, so we've determined that they're unconscious—

The Chair: Sir, for the purpose of Hansard, if you could demonstrate it when you're sitting down in front of the microphone, then the recording device can pick it up.

Mr Ellis: Is this one OK?

The Chair: That'll be fine.

Mr Ellis: The pads are marked with pictures on them, so it's pretty hard to miss. That's part of what we do in the training. Other than that, all I ask you to do is to turn on the machine. So we put the pads in place—

Automated voice: Connect electrodes. [Series of beeps.]

Mr Ellis: So you've attached the electrodes.

Automated voice: Push "analyze." [Series of beeps.] Stand clear. Analyzing now. Sta—

Mr Ellis: Sorry. That's my batteries. That's not a good thing. It's just a trainer device.

Automated voice: Connect electrodes. Push "analyze." [Series of beeps.] Stand clear. Analyzing now. Stand cl—

Mr Ellis: My apologies, guys. I grabbed this out of a car. I didn't intend to bring this. It's a trainer device that I

use frequently and it's just DC batteries. I could do a demonstration for you after.

After the analyze period—it basically tells you to push “analyze.” It recognizes if the patient has a shockable rhythm. If it's not a shockable rhythm, it doesn't charge up. If it doesn't charge up, you cannot shock. The machine doesn't let you do that, and there are safety points in place. I don't know how else to explain it to you.

Mr Colle: It runs on a lithium battery?

Mr Ellis: It runs on a lithium battery. As I said, this is a trainer device that's just getting a lot of activity. But it works off a lithium battery. The batteries are generally foolproof.

Mrs Molinari: It's important that those that are displayed then would have the proper batteries and everything so that ongoing—

Mr Ellis: And there are the battery indicators on the handle that tell you if the battery is charged up. There's a service. It does its own test on itself, and if there's a problem—as I said, if everything goes wrong and your batteries are dead because you left the machine on or anything happened, you're back to the same place you started, which is waiting for a first responder with a defibrillator to come.

Mrs Molinari: And someone doing CPR?

Mr Ellis: Or someone doing CPR in the meantime.

The Chair: Thank you very much, Mr Ellis.

Mr Ellis: Sorry, can I just make one last point as a final note? It costs us approximately C\$1 million to staff and equip an ambulance 24/7 and put them out on the road to reduce response times. You can make a pretty big impact with those kinds of dollars in public access defib programs.

The Chair: OK. Thank you very much.

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CENTRE PAULINE-CHARRON

The Chair : I'd like to call forward our next delegation, Centre Pauline-Charron. Good morning. Welcome to our committee.

Mr Léo Lavergne: Thanks very much. My presentation will be fairly short. It won't be as technical as the previous one, I assume, but I hope it will be useful to the committee.

The Chair : All right. I'd ask you to identify yourself for Hansard, and we have 10 minutes.

M. Lavergne : Very good. Monsieur le Président et distingués membres du comité, merci de m'avoir accordé cette occasion pour vous adresser la parole sur le Bill 51, projet de loi sur les défibrillateurs cardiaques portatifs.

Je suis Léo Lavergne et je suis directeur général du Centre Pauline-Charron. Le Centre est exploité en vertu du paragraphe (2) de la Loi sur les centres pour personnes âgées. Je crois, selon l'article 2.3 du bill que vous étudiez, que les centres comme le nôtre sont inclus dans le projet de loi qui est présentement à l'étude de ce comité.

Plusieurs raisons motivent ma présence ce matin.

Premièrement, je tiens à féliciter M. Colle pour son initiative en déposant ce projet de loi visant à sauver la vie des Ontariens qui souffrent d'un arrêt cardiaque, en promouvant la disponibilité et l'usage généralisé de défibrillateurs cardiaques portatifs dans les lieux publics, lequel, j'espère, sera adopté par la Législature ontarienne, car même si seulement une vie est sauvée, cela en vaut le coût.

Deuxièmement, au Centre Pauline-Charron nous venons récemment de nous procurer un défibrillateur cardiaque, ceci grâce à une contribution du ministère de la citoyenneté, de la culture et des loisirs ainsi qu'une contribution de la Fondation Pauline-Charron, dans le cadre d'un projet sur le bénévolat durant cette année sur le bénévolat. De plus, nous avons bénéficié d'un prix spécial d'achat grâce à une initiative de la région d'Ottawa-Carleton, qui avait négocié un prix de faveur pour les groupes communautaires et les entreprises qui désiraient se procurer un défibrillateur. Je crois que suite à l'adoption de ce projet de loi, le gouvernement devrait négocier avec des fournisseurs pour un prix spécial d'achat ainsi qu'offrir des subventions pour l'achat d'un défibrillateur.

Troisièmement, dans notre projet sur le bénévolat nous procéderons à l'entraînement, par des gens qualifiés, de plusieurs bénévoles sur l'utilisation du défibrillateur, ceci pour assurer que dans la mesure du possible, à chaque fois qu'il y a des activités au centre, qu'il y ait quelqu'un de qualifié pour opérer l'appareil. De là l'importance de ce projet de loi, qui empêchera les poursuites civiles contre les utilisateurs de défibrillateurs et les propriétaires des locaux dans lesquels des défibrillateurs sont installés.

We therefore support this bill and hope that Parliament will pass it, ensuring that individuals are exempt from civil liability.

In closing, I reiterate that in approving this bill, the government should ensure that funds are made available to organizations and businesses wishing to comply with it. Also, the government should negotiate with suppliers for special purchase rates for the defibrillators, as was done by the now defunct Ottawa-Carleton regional government.

Thank you for your time. If there are any questions from the committee members, I will be pleased to answer them.

The Chair: Thank you, sir. Ten minutes is not a very long time, and we have about a minute and a half.

M. Beaubien : Bonjour, M. Lavergne. Merci pour votre présentation ce matin. Je suis d'accord avec vous que selon l'article 2.3 du bill, les centres comme le vôtre sont inclus dans ce projet. Mais ce qui m'inquiète, c'est que tous les centres publics, comme les dépanneurs, n'importe quel centre, celui de votre mécanicien peut-être, seraient des centres publics. Selon le projet de loi, tous ces centres-là devraient avoir un défibrillateur. Est-ce que vous avez un commentaire ?

M. Lavergne : Disons que pour moi, à savoir s'il faut obliger tous les endroits, comme vous dites, le magasin

du coin, d'en avoir un, je pense que dans un monde idéal, la réponse serait oui. Je pense que si on va de cette façon-là, ce que je mentionnais là, c'est qu'il va falloir qu'on rende quand même des subventions disponibles pour aider. Si on regarde soit des petites entreprises ou des organismes comme le nôtre, des organismes de bienfaisance, on n'a pas toujours les argents de budget pour acheter une machine au complet. Si on regarde que le bienfait est pour la communauté dans son ensemble, je crois que le gouvernement à ce moment-là aurait une obligation. Donc, pour moi de dire qu'on devrait choisir, pick and choose, les endroits qu'ils devraient aider, je pense qu'à la longue, peut-être sur une plus grande période de temps, on devrait en trouver une à tous les coins des rues.

M. Beaubien : Oui, mais selon le projet de loi, vraiment si on suit le projet de loi au point, on devrait avoir un défibrillateur à chaque bâtiment public. Alors, le montant d'argent que cela prendrait soit pour le gouvernement fédéral, provincial ou municipal, n'importe lequel, serait énormément grand.

M. Lavergne : Oui.

M. Beaubien : Je crois que ce serait très difficile d'obtenir les fonds, soit au niveau fédéral, provincial ou municipal, pour être capable de remplir la condition dans le projet de loi.

M. Lavergne : Je comprends. Moi, je parle en principe quand je regarde l'endroit d'où je viens, des centres pour aînés, qui je trouve devraient être hauts sur la priorité, certainement. Tout projet de loi qui est mis devant le gouvernement est ouvert à des modifications, j'imagine. Je ne pense pas qu'il faut le passer tel quel, si on pense qu'il doit avoir certaines modifications. Je pense qu'il ne faut pas jeter le bill complètement à l'extérieur parce qu'il y a des affaires qui peuvent nous choquer un peu dedans.

The Chair : A question from Mr Patten and then Ms Boyer.

M. Patten : J'ai une petite question, Monsieur Lavergne. Premièrement, vous avez déjà acheté une machine. Alors, est-ce que vous avez eu l'occasion de l'utiliser ?

M. Lavergne : Non. À date, nous n'avons pas eu l'occasion. On l'a achetée vers le début de l'année dans le cadre de notre projet. On attend de procéder à l'entraînement du personnel et de certains bénévoles avant de l'exposer parce que, mettre une machine et s'attendre—cela devrait se faire dès le début de l'automne, en septembre.

M. Patten : C'est-à-dire que vous avez des programmes de formation pour les bénévoles ?

M. Lavergne : Notre projet, qui nous a permis d'aller chercher des argents pour acheter la machine, c'est justement ça, qu'on veut entraîner. C'est pour ça ; c'est un projet sur le bénévolat. On est un centre de 1 300 membres. On a environ 150 bénévoles qui fonctionnent là, qui oeuvrent, donc on veut en entraîner autant que possible pour que ce soit couvert.

M. Patten : La dernière chose : ça a l'air d'être un modèle pour assister l'utilisation de cette machine-là, parce que vous avez eu ces pas du ministère, de la municipalité et de votre organisation. Combien est-ce que cela coûterait à votre organisation seule, en effet ?

M. Lavergne : Le prix que nous autres avons payé pour la machine est environ 3 900 \$. C'était un prix de la compagnie qui était ici, Medtronic, que la ville d'Ottawa, la région, avait négocié avec, parce qu'ils en mettaient d'autres dans les arénas, dans les piscines, dans différents endroits, et ils avaient offert ça au public, et notre conseil d'administration a jugé à propos d'aller d'avant et le faire. Je pense qu'il serait environ 5 700 \$, le prix régulier.

M. Patten : Merci bien, monsieur.

M^{me} Claudette Boyer (Ottawa-Vanier) : Merci d'être venu présenter le bienfait de cette machine. Je vois par la réponse que vous avez donnée à M. Patten que vous avez la machine dans le moment, mais que vous ne vous en servez pas parce que vous n'avez pas, justement, la formation. Maintenant, j'ai vu dans votre présentation que vous parlez d'un entraînement par des gens qualifiés. Qu'est-ce que vous entendez par là : des gens qui se sont déjà servis de la machine, ou si la compagnie qui a vendu la machine prévoit qu'eux vont donner la formation ? Je pense que ça, c'est important.

M. Lavergne : Nous autres, quand on a acheté la machine, notre contact était la ville d'Ottawa, le service de santé de la ville d'Ottawa, les ambulances, et on nous a fait parvenir immédiatement après notre achat de la machine, après notre intention de l'acheter, le lieu—il y a trois ou quatre regroupements à Ottawa qui fournissent de l'entraînement—

M^{me} Boyer : Qui sont spécialisés.

M. Lavergne : —qui sont spécialisés, dont le collège Algonquin est un, et d'autres. Dans le moment on regardait probablement—on s'attendait à ce que la Cité collégiale l'aurait aimé. Dans le moment on sait qu'au collège Algonquin il est là, et il y a d'autres compagnies qui offrent l'entraînement.

M^{me} Boyer : Dans des présentations qu'on a eues avant la vôtre, on disait bien que c'est très important que la formation soit adéquate. Alors je me demandais pourquoi la compagnie elle-même, avec l'achat de la machine, ne pouvait pas prédire—ça n'a pas été fait ?

M. Lavergne : Non. Pour les autres, cela n'a pas été fait, mais ce sont des affaires qui pesaient dans les négociations.

M^{me} Boyer : Qui à la ville d'Ottawa s'occupe—

M. Lavergne : C'était le service des ambulances. C'était Joe Micucci qui était notre personne-contact à ce moment-là.

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M^{me} Boyer : Alors, c'est peut-être aussi, puisque le Centre Pauline-Charron est vraiment un centre francophone, qu'on a peut-être quand même poussé la Cité collégiale à donner—

M. Lavergne : À donner le même cours.

M^{me} Boyer : Alors, je vous trouve très prudent de ne pas commencer avec la machine avant d'avoir des gens bien qualifiés. Mais d'un autre côté, il ne faudrait peut-être pas retarder parce qu'on ne sait jamais quand ça peut arriver. Si jamais j'ai besoin d'aide, je suis là.

M. Lavergne : Merci beaucoup.

The Chair: Thank you very much, sir.

Mr Lavergne: My pleasure. Merci.

ACTIVE CANADIAN EMERGENCY TRAINING INC

The Chair: Our next delegation is Active Canadian Emergency Training Inc, if you wish to have a chair, sir, and we have 20 minutes available. If you wish to identify yourself.

Mr Dean DiMonte: My name is Dean DiMonte and I represent Active Canadian Emergency Training, which is a training agency in Ontario as well as throughout Canada. I guess today I want to quickly talk about just two perspectives. One is implementation, because we have extensive experience in implementation of the program here in Ottawa and what the factors regarding implementation of AED are. You've heard several perspectives with regard to, "AED is good." "Is it safe?" "Is it unsafe?" I'm not going to dwell on those issues. From our experience, they are safe machines. Cardiac arrest is a major problem in Canada, and early defibrillation is key to survival.

When Active Canadian started—we have extensive experience as practising paramedics both on land and as flight paramedics in Ontario, and typically what we found when we arrived at scenes was that nothing was really being done for patients, because of nervousness or fear of communicable disease etc. So our idea was to congregate practising paramedics to deliver emergency training programs and teach a simplistic approach to managing emergencies from a paramedic's perspective. I have managed probably over 300 to 400 cardiac arrests in my 17 years of experience. With that experience, coupled with medical direction through emergency physicians we've networked with, we came up with an implementation program.

With regard to factors on AED implementation, I'll use our experience here in the city of Ottawa, which has the largest public access defibrillation program in Canada. There were certain factors that we came up with through our experience, and I'd just point you to the handout on page 3 with regard to those factors, and that's my perspective which I want to point out.

Basically, implementation of a program really can't get off the ground without initiative from a centralized management system, and obviously with the honourable member Mike Colle bringing Bill 51 forward, that's really where it starts. It's to have some sort of central management system within an occupation or a public site to start administering that program.

Point 2 indicates medical direction. Truly to have a public access defibrillation system, medical control or

medical oversight is essential, but currently it's necessarily under the Regulated Health Professions Act. With this bill going forth, medical direction would be more oversight from a medical standpoint for the purposes of expertise. But we found that medical direction specifically helps evolve the program into those issues that you brought up earlier, which I was listening to, regarding safety and quality assurance and training etc.

Another impact: we found that the public sector should be aware of regulations with regard to the Occupational Health and Safety Act, due diligence, those types of things.

With regard to training and a written AED program description, we felt, through our success, that the curriculum should include didactic, which has three components—lots of practical evaluation and a certification process with medical oversight approved by the medical director—along with the coordination of emergency medical services, specifically transfer care issues with regard to a cardiac arrest that happens, whether it be in a residential or public place where EMS ends up arriving, that transfer of care, of what the AED provider has provided for that patient, and communicating that to the responding fire or paramedic personnel.

Emergency response plan: we've had several clients where they've purchased a program and we've recommended that certain things be in place. The real key is getting that box to the patient. It's all well and good to spend the money on the program, but if you can't get the box to the patient in a timely manner, the survivability will obviously decrease.

Selection and technical consideration of AEDs: of course, as you know, there are all the manufacturers out there, and there are some machines that have better battery life, some that have different waiver forms, but traditionally those four or five or six machines that are out there are all very good machines. In the technical aspect they are very safe, and the technical aspect pretty much mirrors what they use in emergency departments and on ambulances.

Ancillary medical equipment is another factor with regard to implementation, having barrier devices for the risk of possible communicable disease, which is a nervous thing for certain individuals who take training, and other ancillary equipment like responder bags. Not actually having the first aid kit fixed on a wall so that you have to unscrew it and bring it to the patient, that sort of thing, is another factor in implementation.

Emergency needs assessment of number of AEDs and supplies: if there are six people in an office, you don't necessarily need to buy 12 machines. So assessment of the number of units and the number of people trained is essential.

The last point: scheduled maintenance with regard to skill update and maintenance on machines is a factor that would affect the success of a program.

The last comment I wanted to bring up with regard to the challenges from my perspective is that the lack of

government regulations and support has made the implementation of an AED program difficult.

We have found that most of our clientele base in the corporate sector typically take about eight to 12 months to implement a program, and generally the thrust, in the end, is when they have a sudden cardiac arrest in their workplace. Liability is a big concern for people; hence, we go back to the point with regard to medical direction. We currently have a network of emergency physicians who basically license these programs under their licence, so liability is covered off for the lay rescuer personnel who are actually responding to these patients.

While strict anti-smoking bylaws, fire suppression and that sort of thing have evolved over a number of decades, no law actually exists to regulate the placement of AEDs in public places, even though heart disease is still the number one cause of death in Canada.

Just to close out with regard to the prehospital care survival rates being less than 5%, we're basically saying we'd like to join the many agencies out there that want to go ahead and implement this bill because we feel it's a worthwhile cause and will save thousands of lives in Canada as well as in Ontario.

I'd be happy to take any questions if anybody has any with regard to our experience here in Ottawa and other sectors of the corporate sector with regard to implementation.

The Acting Chair (Mr Gary J. Guzzo): Thank you very much, Mr DiMonte. The time remaining is about three minutes per caucus.

Mr Patten: Thank you very much for coming. You're a Canadian organization?

Mr Dean DiMonte: That's correct.

Mr Patten: I'm somewhat aware of what's going on here in Ottawa, and I think some of the members here are as well.

I have two questions. One is, Dr Vaillancourt this morning talked about how current survival rates in Ontario are less than 5%. But of course that's the existing model, and the existing model is not the public access model. I know there are a variety of concerns that people have raised around that, but it's worthwhile, of course, looking at it.

If, as your deposition suggests, one of the reasons is that for every minute you lose 10% of the potential for survival, and the response time is eight to 10 minutes, then you're at almost 80% to 90% to 100%. Therefore it would seem logical that that 5% is based on an existing model that we're suggesting be changed to improve the probabilities of that. Would that be your reading as well?

Mr Dean DiMonte: That's correct. Absolutely.

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Mr Patten: Could you talk a little bit about what's happening in Alberta and what their experience is?

Mr Dean DiMonte: To be honest with you, I'm not too familiar with Alberta at this point with regard to the survival rate and the public access defibrillation. I know they have moved to deregulate the act, being a controlled medical act, to truly make it a public access system. As

far as success rates in Alberta, I'm not familiar with the success rates at this point. We've had conversations with individuals out there who were responsible, as a matter of fact, to make recommendations here prior to the Ottawa program being implemented, and they have had successes out there.

Again, the percentages that happen out there are fairly in line with current survival-demise rates here in Canada, but truly, in order to get a PAD program like they have in the United States where you have machines displayed everywhere—I know one honourable member mentioned about 7-Eleven. We're just saying that with regard to the implementation, there's more than just putting a box on the wall, and successes are dependent upon a lot of co-operation among membership and among occupations and among people. That would be my comment on the Alberta, which is not very well informed.

Mr Kormos: What is it about the bill, what part of the bill, or maybe all of it, is critical for you?

Mr Dean DiMonte: With regard to implementation, I think the frustration we've had of having experienced cardiac arrest from our clientele base—you know, as Steve said earlier, and we make no bones about it, we're in the process of providing training, but with regard to that question, I think it would accelerate the fact, that AD implementation be much quicker.

Mr Kormos: How? What in the bill does that?

Mr Dean DiMonte: I believe what the bill does is, once you tell employers or public people to have machines in place, then that accelerates the implementation factors.

Mr Kormos: So the requirement that the one, two, three—government buildings, employers and workplaces, and privately owned property to which the public has access—

Mr Dean DiMonte: Correct.

Mr Kormos: So the requirement that they have this PAD equipment there. OK, fair enough.

The liability issue isn't of concern to you? Obviously it has not been a concern so far.

Mr Dean DiMonte: That's right. The liability issues with us—as I mentioned earlier, from a medical standpoint, all of our programs are under a physician's licence.

Mr Kormos: So there's no need to create immunity from liability, as the bill does?

Mr Dean DiMonte: I would say no.

Mr Kormos: See, I'm a fan of liability. I am. I think people who do bad things to other people should have to pay.

Mr Dean DiMonte: Absolutely, and that's why these machines—as I said, I've managed over 300. I've shocked myself. It was funny earlier, what you mentioned with Steve with regard to the dangers and that sort of thing. I've been shocked by actually hands-on machines, and the safety issue with these machines is that they're hands-off.

Mr Kormos: You know what? I've been at Queen's Park for 13 years, and I can't be shocked any more.

The Acting Chair: Mr Beaubien.

Mr Beaubien: Thank you for your presentation this morning. Do you train across Canada?

Mr Dean DiMonte: Yes, we do.

Mr Beaubien: You mentioned that you don't have any concerns with regard to the liability, but yet you mention it's more than just putting a box on the wall. I think those are your words.

Mr Dean DiMonte: Absolutely.

Mr Beaubien: Your training program comes under the physician's licence?

Mr Dean DiMonte: Correct.

Mr Beaubien: Yesterday we heard that people did not have to be trained and they were not under a physician's licence. We had a whole plethora of different ramifications of training, from no training at all to having certain standards.

Mr Dean DiMonte: Right. The Chicago O'Hare model.

Mr Beaubien: So I'm somewhat confused. In your presentation you say, "As well, liability is a concern for most organizations because of lack of understanding of program implementation issues."

Mr Dean DiMonte: Right.

Mr Beaubien: So I'm somewhat confused. Where do we start?

Mr Dean DiMonte: Let me clarify then. Currently under the Regulated Health Professions Act, it's a controlled medical act to do this skill. Therefore, there is some existing liability, from our understanding. The only people who actually can defibrillate under the act are people who are duly qualified practitioners or their designates, so what we do is the physician who takes that designation designates through a program and through quality assurance to minimize liability to perform the act of defibrillation.

When we started with this program I didn't want to confuse the facts with regard to the liability, because you have the Chicago O'Hare airport model where you walk through the airport and it's a one-two-three approach. That's what we're saying: the machine is very, very simple to use. The problem is when you get John Jones at the cubicle desk at pillar 11 on the seventh floor and he develops chest pain and collapses. It's great that you have a defibrillator on site, but how do we get that box to the patient? That's the liability I'm talking about, the reverse liability, if you will, of having the unit on site and not actually performing the act or not being able to get to the patient in a timely manner and all of those things. Our model is to say that the question is not about the safety or the simplicity of the machine. That's not the liability. The liability is actually accessing that patient and getting to that patient.

As a medic, I'll just talk from experience. When we arrive at scenes at the 12-minute mark, you have the spouse saying, "What the hell took you so long?" Our response plan—we're in the west end of Ottawa and we had to race across town and there's traffic and this and that—really becomes the liability. It's not my skill in

performing the act for that patient; it's actually getting at the patient that becomes more liable than the actual act itself.

Mr Beaubien: So therefore there is a liability issue we have to deal with. I think in your presentation when you look at the implantation factors, your number one factor, as you said, is establishment of a centralized management system for the AED program. I think that's the key criterion. That's the foundation of your presentation this morning.

Mr Dean DiMonte: I agree.

The Acting Chair: Thank you very much. We're out of time. I do appreciate your submission.

HEART AND STROKE FOUNDATION OF CANADA

The Acting Chair: The next presenter is the Heart and Stroke Foundation of Canada, Dr Wilson. Thank you for coming, Doctor. You have 20 minutes, and you can use that time as you see fit.

Dr Elinor Wilson: Thank you very much. I do appreciate the opportunity to present to the committee today on behalf of the Heart and Stroke Foundation of Canada. I am their chief science officer and have been involved in the issue of prehospital emergency cardiac care for more years than I would care to account. If it weren't for the colour in my hair you would know how many years.

Mr Patten: Oh, come on. You can tell us.

Dr Wilson: Well, I taught the first course in cardiopulmonary resuscitation in Canada back in the 1970s. So for me, the historical perspective of being here to see how far we've evolved—and here is yet another piece of the evolution of saving lives prehospital—is a very exciting time. You are to be commended on bringing forward this draft piece of legislation.

I would like to present today our organization's response to this. As I said, we do congratulate Mr Mike Colle for this laudable legislative effort, because it will make a difference to the lives of Canadians.

As most of you are aware, the Heart and Stroke Foundation of Canada is a national voluntary, non-profit organization whose key objective is to reduce morbidity and mortality from heart disease and stroke through prevention, through funding research and through advocacy for lifestyle change. We have taken the key leadership role in this country since the introduction of CPR almost 30 years ago and have worked with most of the other national organizations in this field in helping to establish standards, coordinating efforts, and promoting the chain of survival.

I won't go into great detail about heart disease and stroke, but we do know that it remains the number one killer in Canada. Almost 22,000 deaths a year are as a result of heart attack. Every year between 35,000 and 40,000 Canadians suffer a cardiac arrest. If you suffer your cardiac arrest outside of hospital, you're pretty well out of luck in this country. Fewer than 5% of people who arrest outside of hospital do survive to hospital discharge.

By survival, that's surviving with their faculties intact and able to go back to becoming a productive member of society.

These victims who arrest prehospital need immediate and timely treatment in order to increase this likelihood of survival. Truthfully, if you look at it this way, the community is the ultimate coronary care unit. Heart disease begins in the community, and all too often for our citizens it ends in the community in terms of sudden cardiac death.

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Increasing the availability of automatic external defibrillators and training more Canadians to operate these will increase this chance of survival quite dramatically. This is why our organization is supporting the Portable Heart Defibrillator Act and why we have been active across this country for the last five years in promoting automatic external defibrillators as a key part of the chain of survival.

The citizens of Canada also are onside in terms of this. In December 1999, we did an Environics omnibus survey of over 2,000 Canadians asking them about automatic external defibrillators and asking the public's opinion on whether or not these devices should be available more widely in Canada. Ninety-five per cent of Canadians said these devices should be more widely available. In terms of their simplicity and ease of use, we also asked them if they would personally like to learn how to use an automatic external defibrillator, and 86% of the Canadian public said yes, they would be interested in and willing to learn how to use this device.

The foundation is the leader in the area of emergency cardiac care in Canada. In August 2000, our organization, along with every other organization that is involved in this business in Canada, adopted new guidelines for CPR and emergency cardiac care. It looks like a big red brick. It weighs about the same as a big red brick. These guidelines were based on the latest scientific evidence from a worldwide review. This is the first time in the history of the world where all organizations internationally have come together and said there are certain guidelines based on science that will make a difference in saving lives. So the Australian Resuscitation Council, the South African, the European, the American Heart Association, all of these resuscitation councils worldwide participated in this, including the Heart and Stroke Foundation of Canada.

Out of these guidelines, the Heart and Stroke Foundation of Canada, working with other national organizations, has developed guidelines for Canada, including an action sequence that's widely used throughout the country. These guidelines, if followed, will certainly increase the chances of survival, so we encourage the Ministry of Health and Long-Term Care to adopt the guidelines. We also out of this, with our partner organizations, have developed training programs to ensure that a high quality and a high standard of training is ensured for people who will use these devices.

Going back to my earlier reflections, it's interesting to note that when I first started teaching CPR in this

country, CPR was regarded as a skill that only medical doctors inside of hospitals were allowed to perform. We very quickly realized 30 years ago that if that's who the skill was limited to, we would have thousands of people who were going to die before cardiopulmonary resuscitation could be taught. We're in the very same situation now with automatic external defibrillators. The curve of how you get the best scientific evidence out into the community in a safe and timely fashion is extremely important. We think the guidelines that are in place and the proposed legislation, with its safeguards in there, will allow for the diffusion of this scientific evidence very quickly. It sets the precedent for more action in that field.

The key to improving the outcome for Canadians and Ontarians suffering a cardiac arrest are those key links in the chain of survival. AEDs alone will not solve this problem. So the thought that if you just stick a bunch of these machines in a bunch of places you're going to save lives is not what we are promoting. We are promoting automatic external defibrillators as a key component of the chain of survival that starts with the early recognition of chest pain and the activation of the emergency care system. We know from the data you have heard that the chance of survival decreases 7% to 10% with each minute after cardiac arrest.

We believe that with the passage of Bill 51, the government of Ontario will be in a leadership position in Canada in terms of access in public buildings and in places where traditionally this kind of information has not been available.

We are also very pleased to see the provision of the "good Samaritan" provision in Bill 51. In fact, given the absence of good Samaritan legislation, we would advocate that this provision be extended to cover first aid and CPR as well. Although some provinces have good Samaritan legislation and others have deregulated AEDs, there is no doubt that Bill 51 will serve as a model for other provinces to follow and will support the efforts of communities in this province that have already taken that very vital first step.

In conclusion, the Heart and Stroke Foundation recommends that the Ontario standing committee on justice and social policy endorse Bill 51 as part of a chain of survival for the province; encourage the Ministry of Health and Long-Term Care to adopt scientifically-based guidelines that have been promoted and completed by the Heart and Stroke Foundation and their partners; insist that these devices follow a recognized program that meets certain high-quality guidelines and standards; make sure that AED programs are included in Ontario's emergency medical services; expand the good Samaritan provision to include first aid and CPR; encourage all communities in this province, workplaces and public venues to establish programs; and encourage funding agencies and corporations across the province to support and establish standardized AED programs.

Canadians value the role the foundation plays as a provider of information on CPR and as a leader in the area of these types of guidelines. It is because of our

involvement in these critical areas, which have so much potential to save lives, that we believe Bill 51 is a very vital bill to receive passage. We thank your committee for the opportunity to present, and we thank your committee for the foresight and wisdom in improving the health of Ontarians.

The Acting Chair: Thank you, Dr Wilson. We have about three minutes per caucus.

Mr Kormos: I've been impressed by what the cities of Ottawa and Windsor have done, and we're told a whole bunch of private sector operators—the Eaton Centre, big plaza operators, apartment building developers—are buying these machines and putting them in their buildings.

I understand you like the limitation on liability, the exemption from liability except for gross negligence. What else about the bill is critical to people or programs being initiated in the manner that you wish?

Dr Wilson: One of the very important pieces about a bill, which is why I'm assuming politicians pass bills and legislation, is that it establishes the legitimacy of something.

Mr Kormos: Except this doesn't, though, deal with the regulated health professions, because by implication—and I'm going to ask research to do something on this—the bill would still require that the only people who administer these shocks are people who are trained and authorized by a physician. Am I correct in that?

Dr Wilson: Yes, and certainly we support that, because we support the concept that this is part of a systems approach to emergency care delivery in our communities, and all emergency care delivery requires physician oversight. What it does not require, though, is a physician on the scene every time a device is used. So this is part of the accountability in the broader sense for emergency cardiac care and devolving accountabilities and responsibilities to a level where, under strict standards, guidelines and training, people are able to utilize these devices.

Mr Kormos: But again, that's already happening now, is it not?

Dr Wilson: Well, it's happening through emergency medical services, but—

Mr Kormos: No, it's happening in the private sector. It's happening at the Eaton Centre. I learned about some rich people who buy these to put in their homes, so it's already happening now.

Dr Wilson: And our concern would go backwards, as in, how has the Eaton Centre, for example, in its positioning of defibrillators and training—how does that link in to the emergency plan and the Toronto emergency medical services? Our emergency medical services must know where these defibrillators are placed.

Mr Kormos: OK, so you're talking about building a system. Are you, then, interested in the issue of compatibility? Emergency medical services folks are concerned, and they got into a little bit of a dispute with the manufacturers and distributors because they are concerned that the equipment they arrive with be inter-

changeable with the defibrillator that's there on site. They want to be able to plug in wires without having to worry about it. Is compatibility a big thing for you folks?

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Dr Wilson: My understanding of compatibility is that most of these devices operate very similarly. My understanding of laypersons' involvement with this is, if I am a layperson in the Eaton Centre, an employee who has been trained in this—

Mr Kormos: A trained layperson.

Dr Wilson: Yes, a trained layperson—and I take this action, when I am buying the time until the emergency medical services arrive, they would take over the accountability and the responsibility. If there was a need to quickly remove the paddles from one machine and stick on another two, this takes seconds. This isn't a very long, involved procedure to do that.

The Acting Chair: I'm sorry, I'm going to have to interrupt.

Mr Kormos: I know you feel bad about it, don't you?

The Acting Chair: I do. I apologize.

Mr Kormos: You're teary-eyed.

The Acting Chair: You have noticed. If there's extra time I'll come back to you, sir.

Mrs Molinari: Thank you very much for your presentation. I do have a copy of the 2000 guidelines.

Dr Wilson: Have you got it memorized?

Mrs Molinari: Not quite memorized, but I have highlighted some points in it that are certainly interesting for me: the whole issue around the training and someone to be properly trained to use a defibrillator, the crucial importance of it and the possible effects and danger of someone not using it properly.

I just want to quote from your introduction. It says, "Public access defibrillators, which place AED in the hands of trained laypersons, have the potential to be the single greatest advancement in treatment," which is something that is certainly supported.

It also talks about inappropriate shocks or failure to shock. Under that it says, "Failure to follow the manufacturer's instructions for the use of a fully automated external defibrillator has in rare instances resulted in the delivery of inappropriate electrical countershocks." Then it goes on to talk about some of the specific and special situations that may require additional actions for an individual using a defibrillator.

I compliment you on putting such an extensive guideline together, because it's important for those who are using the defibrillators to have the knowledge in how to use them.

Bill 51 does not cover the training. In essence what it says is that defibrillators will be accessible throughout public places and that anyone who is close by to someone who has cardiac arrest may be able to use a defibrillator to save that person's life. What we've been hearing from several presentations through yesterday and some today is that there are no dangers in someone using such a device if they're not properly trained. Certainly in your guidelines in various cases—and I've only highlighted

three. It's probably as heavy as a brick, so there's a lot more in there that covers some of those aspects.

Could you comment, first of all, on the importance of the training and some of the effects that are negative in not using the defibrillator properly, and on some of the dangers? Certainly as a member of the Legislature passing a bill, I need to be assured that there aren't dangers and that in fact the device does what it is intended to do, and that is to save lives.

Dr Wilson: Thank you very much for that question, because you are absolutely correct. That's a very vital question. That took a great deal of the discussion as these guidelines were being promulgated internationally, because there's a certain base of evidence that exists and the feeling of the international experts in this field was that the evidence was solid enough to recommend the use of automatic external defibrillators by trained individuals. You will notice in their recommendations that they have indeterminate recommendations around getting them down, to deploy them just anywhere anyone might wish to buy a defibrillator. If you look at patients, for example, of a cardiologist, for a high-risk patient, that individual physician may recommend that to his patient and their family and train them in the use. So they would be trained.

But you're quite correct. Our position would be that this kind of a device, as safe as it is, is like any device. We have standards and guidelines when we work in factories or when we work in stores about occupational health and safety and devices etc. This is why we are recommending that this be looked at as part of a broader emergency services system; and that if organizations are going to buy and utilize these devices, there is the assurance of adequate training programs in place.

It's going to be an evolution over time. I liken it very much to the computer evolution. It gets simpler and simpler and easier and easier.

Mr Beaubien: But it's not simple enough yet.

Dr Wilson: I would agree to that. I'm a Luddite, so I would agree.

Mr Colle: I just want to correct the record. It's a very short bill. I wish the members would read the bill. It's two pages and there's a program. On page 3, it says:

"Training program

"(3) The ministry shall develop a training program and protocol in the appropriate use of portable defibrillators in conjunction with stakeholders that provide emergency services."

I just want to correct the record, that this bill does believe that training is an important part of introducing these life-saving machines.

I would also like to mention—and maybe I would ask for your input—that one of the suggestions I was given is that these machines can also save lives if untrained people can access them, as in the case of O'Hare airport, where every minute you can access one. We've got a lot of negative comments from the Conservative side. Would the Heart and Stroke Foundation then say, "Don't follow perhaps the O'Hare example in certain high-risk situa-

tions like casinos or perhaps golf courses"? Would Heart and Stroke say to people, "Don't touch that dangerous machine if that person's lying on the ground because you're not trained"?

Dr Wilson: I think that's a very excellent question and I think what we would say is we believe these should be used in a context with training, as you've pointed out. However, there have been many, many instances where people have had a cardiac arrest and an untrained bystander has performed cardiopulmonary resuscitation and made a difference in that person's outcome.

They may have broken several ribs while doing it; we do that in the hospital as well. However, the alternative to that is death. So I think your point is very well taken, Mr Colle, that no, we would absolutely not say, "If you're not trained, stand with your thumb in your ear and wait for the emergency services to do that."

These machines have a very high safety level. They're very well programmed, as you know from your background research. It's very difficult to make a fatal error with these machines. However, having said that, we would promote them in the context of training. That would be our preference.

Mr Colle: Just one other short question: I think you also made a very valid point, that there's been a bit of a misconception here in terms of medical oversight. I think the practice that is in place right now in the city of Ottawa is that the city's medical officer of health is the physician with the oversight, which allows the city of Ottawa therefore to place the machines in appropriate places as designated by the committee. Therefore you don't have to have a doctor directly involved with the specific location.

The other point I just want to clarify again is that, as you mentioned, the location of these devices shouldn't be willy-nilly everywhere. As this bill says, there's a stakeholders' committee that examines the epidemiology, the occurrences of high risk; therefore you start with the highest-risk locations where you would have these. My colleague from Sarnia talks about every 7-Eleven. This is not about every 7-Eleven. This is about casinos, airports and shopping centres. This is all done historically and very systematically. I think you concur with that approach of implementation, of looking at an audit of where they would be most effective.

Dr Wilson: Absolutely. That is exactly the way you would want to approach this. The people who are most likely to use them would be, first, fire, police, ambulance, lifeguards, people who are trained to do that. Then you would look at high-density areas where there is a higher-than-average occurrence of cardiac arrest and train there.

You're right; you move it down the system. But we would not recommend you start at the bottom and don't do any of these other pieces here. Our recommendation would be that you start in a systematic way.

Mr Colle: Highest priority.

Dr Wilson: Yes, sir.

The Chair: Thank you, Dr Wilson. We wish to thank the Heart and Stroke Foundation.

The committee will now take a break.

Mr Kormos: Chair, once again, to research.

The Chair: A question to research?

Mr Kormos: Yes, this whole relationship between the Regulated Health Professions Act and administration of one of these machine processes as a controlled act, so the status quo and its interrelationship with this bill. Do you know what I'm saying? I would appreciate it. I think I'm correct in saying the bill is still subservient to the Regulated Health Professions Act. End of story. I'd like to see that role.

The Chair: You had a question for research?

Mr Colle: If you look in the preamble: "The Ministry of Health and Long-Term Care in consultation with emergency health stakeholders is required to develop" That's in the explanatory note, first of all. Then, if you look under "Guidelines," "The Ministry of Health and Long-Term Care shall develop and publish guidelines in the use and maintenance of portable defibrillators in co-operation with appropriate health and emergency service stakeholders." Then also a training program is done with the same stakeholders committee. I didn't, obviously, do a good enough job of wording that, but there would have to be an expert committee that would decide all this stuff, that would be part of it. Not having a team of lawyers to draw this stuff up—

Mr Beaubien: This is what Mr Kormos has been suggesting for the past couple of days.

Mr Colle: Yes.

Mr Kormos: Well, the health professions act—

Mr Colle: So there would be an expert team that would decide all this stuff, in conjunction with the Ministry of Health.

The Chair: I'll remind the committee, we now break until 1:20 this afternoon, our first presentation. Those staying at the hotel here, checkout time is 1 o'clock. Committee adjourned.

The committee recessed from 1203 to 1400.

CITY OF OTTAWA LIFEGUARDS

The Acting Chair (Mr Marcel Beaubien): If I can get your attention, I'd like to bring the committee to order. I do have the blessing of the Chair, by the way.

We have a presentation from the city of Ottawa lifeguards. I would like to ask the presenter, Kim Desjardins, to step forward and state your name for the record, please. You have 20 minutes for your presentation.

Mrs Kim Desjardins: My name is Kim Desjardins. I am a lifeguard and pool supervisor for the city of Ottawa, currently at the Walter Baker Sports Centre pool.

Thank you, honourable members, for letting me speak on this issue. I just wanted to tell you quickly about the opportunity I had to use this machine in a real-life incident that happened earlier this year at the Nepean Sportsplex pool. As pool supervisors, it's our job to ensure that our lifeguards are well trained, and I participate in that training as well. It has always been

unnerving when you get a phone call or you hear a whistle indicating that your help is required.

On the day in question, I received a phone call in my office from the customer service clerk, who indicated that there was a gentleman who had lost consciousness in the male change room. At that point in time, the lifeguards responded quickly and secured the area and went in to assist the gentleman. By the time I got there, the lifeguards had discovered that he was not breathing and was without a pulse, and they were beginning to open up the trauma kit to apply oxygen and to use the AED that we had on site. We had had it for over a year and had been doing training etc, and this was the first time that we were going to use it.

At that point in time I opened up the machine and followed its directions and followed the training that I had had. After one shock was given, or shortly thereafter, after following the protocols, we noticed that the patient started breathing again. He regained a pulse. It was quite an amazing thing to see a lifeless, frail body that was grey and blue go back to a normal pink colour and to hear that breathing again. It was incredibly satisfying to see that transformation, as opposed to seeing the patient being wheeled out still having compressions done on them and not knowing what's going to happen. At least we knew we had done something at that point in time.

Having that experience, I wanted to just quickly talk about my feelings toward this private member's bill. I am in support of it. When we first were told that we were getting the AED machines at our site, as a lifeguard and coordinator of the administration of the facility my first reaction honestly was, "Oh, God, another piece of specialized equipment that we have to train the lifeguards on and monitor, whether we have the equipment or whatever." But having the machine there, it's so easy to administer: you do one check a day. Having used it in a real-life situation and been trained as an AED instructor, it's an incredibly valuable piece of equipment.

The reason I speak so highly of it is that as a rescuer, when you're doing CPR and rescue breathing, you have no time to stop and think, "Have I done everything else that I'm supposed to do as a lifeguard within a rescue?" With the AED machine it slows the rescue down. It gives all the people involved time to gather their thoughts, to think, to say, "Yes, I've completed this. I've called 911." In the instance that I'm referring to, before the patient even left the facility our lifeguard team had not only gathered all the witness statements that were required but had also contacted the family to let them know what hospital the patient was going to. Normally we wouldn't be that organized because we would be doing CPR and rescue breathing throughout the entire rescue. With the AED machine, when it's analyzing and shocking, it gives you that moment to take a deep breath, to say, "Has this been done? Has this been done? Do this." It really improved the quality of our rescue by leaps and bounds.

It is also an excellent machine because the rescuer doesn't have to do artificial respiration and CPR constantly until the paramedics arrive, so it's not as

tiring. If you can imagine pushing on someone's chest and giving breaths for a period of five to 10 minutes, it's not an easy task. It's very tiring, and it's very disturbing to someone having to do this knowing that this person might not survive. With the AED, pressing a button is very easy to do. There's no gross-out factor involved; all you're doing is putting the pads on and pressing a button. You do have to do CPR for a minute, but that minute goes by so quickly and the machine counts it down for you. It's basically foolproof.

One issue is the fear factor. As an AED instructor for both the Lifesaving Society and Active Canadian, the first question I always get, whether it's from lay people or trained lifeguards, is, "What if I put the pads on wrong or what if I put it on someone who doesn't need it?" The machine is so foolproof and safe that I don't think it would be an issue at all. I really want to push that. It's safe, it's easy to use, and it's easy to train people.

Currently, many people get CPR training. It's very easy to include this training, and I believe most associations are including the AED training in their CPR course. The more people who get trained, the more likely there will be in a public place at least one person who has seen the machine used before, whether it be in a CPR class or on television, or who has just read about it in the paper and realized that it's so easy to use and it's safe, and so they will attempt to use it and hopefully save someone's life.

That's all I have to say. Do you have any questions?

The Acting Chair: Thank you very much. Yes, we do. We have approximately three minutes per caucus. I can't remember which caucus is up, so I'll start with the official opposition.

Mr Colle: Kim, it certainly made me think of how frightened we might be encountering the situation that you did. How long before that incident occurred did you get the defibrillator on site?

Mrs Desjardins: We had the defibrillator on site for approximately a year, give or take, prior to that incident.

Mr Colle: When did you get trained?

Mrs Desjardins: I was trained probably 11 months before the incident happened.

Mr Colle: Was there a sequence when you were retrained or updated?

Mrs Desjardins: I was trained initially as an instructor with the Lifesaving Society, and so it was part of my job to initially train our staff on the use of it. All of our staff was trained the one time at that point in time, and I was fortunate enough that I had an opportunity to practise when giving the course.

Mr Colle: When you were training others.

It was the city of Ottawa, I guess, that installed it at the Nepean Sportsplex. Is that where it was?

Mrs Desjardins: Actually, the city of Nepean had two defibrillators the year before amalgamation, but now the city of Ottawa has an excellent program where they have distributed it to all of our aquatic sites.

Mr Colle: Where was it placed on the site there in the configuration of where the pool is?

Mrs Desjardins: At that point in time it was placed in our emergency trauma bag so only the lifeguards had access to it. Presently we have two units in that building, in particular one that remains within the lifeguards' possession and another one that is placed in a public area in the lobby.

Mr Colle: But this thing that happened there, you went as soon as the alarm sounded, or how did you get notified there was this gentleman?

Mrs Desjardins: The gentleman collapsed in the pool public change room, and another patron alerted the customer service clerk that he was in distress. The lifeguards obviously have emergency procedures that they follow, so the customer service clerk notified the lifeguards and then we responded as per usual.

Mr Colle: Where were you at the time?

Mrs Desjardins: In the main pool office.

Mr Colle: How far away did you have to go?

Mrs Desjardins: About a two-minute run.

Mr Colle: You ran down and then you had the whole kit with you?

Mrs Desjardins: The machine was there when I arrived.

Mr Colle: Who had brought it there?

Mrs Desjardins: One of the on-duty lifeguards. I'm certified as a lifeguard, but I was the pool supervisor. The lifeguards had already initiated everything.

Mr Colle: So you were the supervisor at the time. Who opened up the machine and started to apply the pads?

Mrs Desjardins: That would have been me. I stepped in. They were transferring the patient. He was beside a set of lockers and a bench, so it was a very confined area. When I arrived they were just moving him into the middle of the floor so we had room to work. That's when I opened up the bag and took out the AED.

Mr Colle: Had someone already been doing CPR?

Mrs Desjardins: Yes.

Mr Colle: The CPR had already been started.

Mrs Desjardins: Yes.

Mr Colle: Then you applied the—

Mrs Desjardins: The pads.

Mr Colle: And he wasn't breathing?

Mrs Desjardins: He was biologically dead at that point in time: no breathing, no pulse.

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Mr Colle: OK, and then you applied the pads. You just had to shock him once?

Mrs Desjardins: We had to shock him once, yes.

Mr Colle: And then he started to—

Mrs Desjardins: Then we followed the protocol for a little bit longer, where it re-analyzes and asks you to re-check pulse. It was very obvious when he regained a pulse, because he took a deep breath and started to pink up right away.

Mr Colle: The last comment I'll make: you mentioned that the machine helped you with the quality of the rescue. Could you just explain that to us? We're all novices here, really.

Mrs Desjardins: The lifeguards are very well trained. They have excellent emergency procedures. But without that piece of equipment, the lifeguards have to focus on actively treating that person by giving compressions and breaths for the entire rescue. There's no pause. With this machine, once you put the pads on, you actually can sit back, press the button and wait until the machine analyzes, and then it will tell you either that a shock is advised or no shock. So you have that time to sit back and go, "We're doing OK. Has the ambulance been called? Has the pool been secured?"

As the leader of that rescue, it gave me an opportunity to sit back and take a break and go, "OK, everything is being done. The patrons are safe. The pool is secure and 911 has been called. We've got witnesses waiting to give their statements." It just gave us so much more time to sit back and think, "Is everything being covered that we need to do?" By the time it's analyzed and a shock is indicated, again, all you have to do is sit there and make sure the area is clear and press that button and then follow the prompts. You don't have to be too bright to use the machine.

Mr Kormos: You don't have to be too bright to use the machine? Any of us could do it.

Mrs Desjardins: Any of you could do it within about five minutes here, I think.

Mr Kormos: Thank you very much; I appreciate what you've had to say to us this morning.

Mrs Molinari: Thank you very much for your presentation. Certainly in your job you've had some interesting experiences. From sharing one and the benefits of having a lifesaving technique and ability and being trained in that, the benefits of it, certainly it did well for you in that incident.

The one concern that resonates for me constantly is the issue around improper usage and improper training of an individual, or no training for that individual who might be using it. To presenters throughout yesterday and today, I consistently asked this question, because I need to be reassured that all of the safety factors are taken care of and that it's not going to be used by someone who is not trained and could in fact cause harm rather than benefit, not only to the individual who is being treated but also to other individuals surrounding.

I've done some research. The Heart and Stroke Foundation indicates there are certain steps that one needs to take to ensure it's used properly. One presenter yesterday, a manufacturer, Philips Medical Systems, also made a presentation about the equipment. They were asked the question that I'm asking all presenters about the dangers of improper use. At the time they had said there are no dangers, that it's foolproof, yet when you look at their user guide, it has warnings. It says "conditions, hazards or unsafe practices can result in serious personal injury or death," and then the danger, "immediate hazards which will result in serious personal injury or death."

Could you comment on that factor and what one needs to be aware of in case of improper use or someone using

it who's not trained and what the negative effects to that would be?

Mrs Desjardins: As I had mentioned before, when you're teaching people, that's always their first question: "What if I hook it up to someone who doesn't need it: they're just sleeping and I hook it up?" Or, "What if I hooked it up to my dog? What would happen?" With the new technology, those machines will only indicate a shock and charge up to deliver a shock—now, I'm not a manufacturer; I'm not an expert—when a certain rhythm, a shockable rhythm, is indicated. For normal sinus rhythm, it won't indicate a shock. So for all of us sitting here, it would never indicate that a shock should be delivered.

That fear aside, I don't have any fears of it being hooked up to someone and used, the button pressed and some terrible harm coming to the person because they didn't need a shock. The only safety issue is to stand clear when you're administering the shock. I believe all the machines indicate "stand clear."

I just taught my mother-in-law how to use the machine two weeks ago and she was amazed at how easy it was. She hates doing CPR, but she was so focused, because she had never used the machine before, listening to what that machine was telling her. I believe any layperson who has the guts to take it off the wall and use it without any training is going to listen to the prompts. So if it says, "Stand clear," I think that person is going to be listening to the machine and saying, "Hey, everybody, stand clear," because they're going to be nervous and they're going to want to do the right thing. They're not going to be lackadaisical about it and just be pressing buttons randomly. I would hope that anyone who used it without proper training would be following the prompts to the letter.

The safety issues—when I get in my car, it has an air bag. The first thing I do when I flip the thing down is—there's a warning about the air bag: you shouldn't have your little child in the front seat, you shouldn't have your seat too close to it. You have to use safety equipment properly for it to be effective. I believe the benefits far outweigh the risks with this machine.

The Chair: Thank you very much for your presentation.

Mr Colle: By the way, did the guy ever thank you after the fact?

Mrs Desjardins: Yes, we got several letters from his family and his grandchildren and he came in and thanked us, and he swims every day again. He's back at it.

PARAMEDIC ASSOCIATION OF CANADA

The Chair: I now wish to call forward the Paramedic Association of Canada. Do we have a representative here? If you'd have a chair, sir. I'd ask you to identify yourself for the purpose of Hansard.

Mr Paul Morneau: Certainly. Mr Chair, committee members, my name is Paul Morneau and I appear today on behalf of the 16,000-plus paramedics represented by

the Paramedic Association of Canada, PAC. PAC is a professional association that acts as a patient advocate and supports the profession of paramedicine. I would like to thank the Chair and committee members for the opportunity to appear to speak about Bill 51.

I'm an advanced care paramedic and have worked as a professional in the field for over 12 years in both eastern Ontario and in the Dufferin and Caledon regions. Prior to my professional status, I worked over a seven-year period as an emergency first responder for several groups. I will endeavour to share with you today the concerns of front-line paramedics on the issue of poor survival rates in sudden cardiac arrest patients in Canada.

I know that several groups have already enlightened you on the poor survival rates for cardiac arrest patients. Presently in the best-case scenario it is unlikely that a person who suffers from a sudden cardiac arrest will have a trained rescuer by his or her side in less than five minutes or so; often it's much longer than that. The Heart and Stroke Foundation and all the scientific studies that back them up have made it clear that the key to saving more victims of sudden cardiac arrest is rapid defibrillation. In fact, the Heart and Stroke Foundation has shown that there is a chain of survival that is required in order to reasonably expect a person suffering from a sudden cardiac arrest to survive.

This chain of survival can be summarized into four basic steps: early access—having 911; early CPR—someone starting CPR; early defibrillation; and having early access to advanced life support.

The Paramedic Association of Canada represents the men and women of the last link in this chain of survival: the paramedics. Paramedics across this province and the country work very hard every day to try and save victims of cardiac arrests, and yet survival rates tend to be dismal. It is so upsetting to us when we are unable to save someone's father, mother, other family member or a friend, not to mention the people who are related to this person or are friends of this person.

Having access to advanced life support paramedics plays a critical role in saving patients suffering from sudden cardiac arrest. The province of Ontario and now the upper-tier municipalities—the UTM's—across the province continue to do an admirable job in increasing the education of paramedics to the advanced level. However, we realize, like any chain, we are only as strong as the weakest link. We must have an established public access defibrillation program if we are to ensure that victims of sudden cardiac arrest have the best possible chance for survival.

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PAD programs must have (1) consistent standards that are used province-wide or, at the very least, throughout the local UTM; (2) medical oversight; and (3) local coordination. The local emergency medical service, the EMS system, may be an ideal group to coordinate the training provided by various public and private agencies. They may also be an ideal group to monitor the PAD

program locally and ensure that quality assurance and quality improvement processes are put in place.

Having uncoordinated use of PAD leads to varying protocols, with different pieces of equipment which may hinder the ability to properly evaluate the successes and/or failures of the program. In addition, paramedics who respond to the scene of a sudden cardiac arrest must know what to expect and must be familiar with the protocols and equipment being used in their communities.

Both the cities of Calgary, Alberta, and Ottawa, Ontario, are good examples of functional PAD programs which are coordinated through the local EMS systems. These systems help ensure consistent standards, medical oversight, quality assurance and quality improvement.

Paramedics are the professionals of prehospital care. PAD programs should be a coordinated effort, and our EMS systems may be a good place to establish them.

Paramedics from the Ontario Paramedic Association and the Paramedic Association of Canada should be an integral part of any committee that comes from this bill or anything that is developed further. We want to be a part of that.

I would be happy to answer any question you may have. We ask for your support for this legislation that will help to save the lives of our patients.

The Chair: Thank you very much, sir. We have a little over three minutes for each party. Comments or questions?

Mr Colle: Thanks very much for coming, Paul. This is based in Kamloops, the national paramedic association?

Mr Morneau: That's where the address is. We're across the country. I'm actually based out of Ottawa.

Mr Colle: Do you keep any data in terms of the use of defibrillators by paramedics among your professional association?

Mr Morneau: We wouldn't keep specific data about the use of defibrillators, other than that it's widespread. It's very rare to have a paramedic in this country who doesn't have a defibrillator at this point in time. They've been around for years now. We're at the point now where it's become so sophisticated, yet easy, that we have public access defibs, machines that are very smart and very safe to use, and it's time that the public can use them. It doesn't have to just be in the hand of a paramedic.

Mr Colle: What percentage would you say of paramedics operational in Canada use external, portable defibrillators?

Mr Morneau: I would be guessing.

Mr Colle: How high is that guess?

Mr Morneau: I would suggest 98%.

Mr Colle: When a paramedic goes out on a call, they more than likely have an external—

Mr Morneau: Absolutely. Unfortunately—

Mr Colle: The paramedic would not want to go out to a call without one of the defibrillators, right?

Mr Morneau: No. It's a critical piece of the equipment we carry today.

Mr Colle: In all these calls the paramedics make across the country, what percentage of these calls involve accidents or some kind of mishap caused by the use of an external defibrillator?

Mr Morneau: I've never heard of any incident.

Mr Colle: For how many years have paramedics used the defibrillators?

Mr Morneau: At least 10 years. You know, Johnnie and Roy from Squad 51, almost 30 years ago from TV. I know it's a TV show, but where paramedics were initiated early on, they had machines. Defibrillators have been around for a long time and certainly in the past 10 years, I'd say, it's widespread in pre-hospital use. Like I said, it's time now that the public gets a hold of this.

Mr Colle: We've heard some deputations here that say, "Be careful of water, be careful of radio signals. There are all kinds of dangers with the machine." The experience of the paramedics is that the so-called mishaps have been few and far between as a result of using—

Mr Morneau: Absolutely, and I've certainly heard of the occasional mishap where a paramedic has shocked themselves or they've been touching the stretcher and the defibrillator's gone off, but it literally has been nothing significant other than being written up as happening because they were touching the stretcher or something. It is nothing more than if you were working on your electrical system at home and your screwdriver touched the wrong wire for a second. No one that I know of ever required any kind of treatment or care—no paramedic, that is—because of any mishap. Certainly those mishaps are few and far between.

Mr Colle: When we were in Toronto there was a debate about whether or not to let firefighters use the defibrillators—they shouldn't use them because they aren't trained and so forth. Was there a debate 10 years ago of whether or not to allow paramedics the use of the external defibrillators? Did that come about basically within the professional association? How did you get them?

Mr Morneau: I think the need was there. Especially over the last five to 10 years in Ontario the education level of paramedics has gone up dramatically and, of course, the defibrillators we use are much more sophisticated than what we're talking about here so we obviously require training. I suppose you could say that even the defibrillators that came out years ago required more training at that time. Now, these public access defibrillators are so automated and so automatic and are able to determine whether or not to shock someone so accurately that the level of training that we require for our machines certainly isn't required for the public. That's not to say the public shouldn't be trained. We certainly do advocate training and standards to train the public.

Mr Colle: Thanks so much, Paul, for taking the time to come.

Mr Kormos: I appreciate the comments. You should know that your Ontario counterparts were in Toronto yesterday. Johnnie and Roy?

Mr Morneau: Squad 51? It's the old—

Mr Kormos: I'm older than you are.

Mr Morneau: —emergency, you know, Rampart General. It was on TV 30 years ago. It was a great show. That's probably why I am what I am today.

Mr Kormos: Had it been on 40 years ago I'd remember it, OK? Thank you.

Mrs Molinari: Thank you for your presentation as well this afternoon. Certainly, as a paramedic, your training to be able to use a defibrillator in life saving and all of that has done you well.

The drafter of the bill asked about the mishaps that might have been caused, and we need to hear about any of those. I'm pleased to hear there haven't been any in the ones that you've indicated. I think at this point it's been because all of those who have been using them have had the proper training and know exactly what to do when they're using a defibrillator.

If they're not at this point in time readily available for someone who has not had the proper training, my concern comes around the whole issue of someone using it and not being properly trained. As a representative of the government, and as a member who represents a constituency in my community, I need to be assured that what we're putting out is life saving, which we've all heard it is so I don't dispute that. But I need the reassurance on the other side that it won't cause any harm or damage or injury to anyone using it who is not properly trained.

We've had presenters from the manufacturers who have talked about how foolproof it is and how safe it is, yet in their manuals and users' guide they highlight all kinds of warnings. The Philips Medical Systems is one that says "possible explosion hazard if used in the presence of flammable anesthetics and concentrated oxygen." The warning is: "Improper use can cause injury." The Forerunner, which is what they call the defibrillator, "delivers electrical energy that can potentially cause death or injury if it is used or discharged improperly."

These are the concerns that I have, and in the hearings I need to be reassured that this in fact is something that can be used with the proper training. What is it that we need to do to the bill to ensure that these types of fatalities don't occur? Could you comment on the use of such a device by someone who would be properly trained, because I think you also mentioned that the general public can use it. What about all of the safety factors and not knowing all of those and being able to use it and causing some harm, in essence?

Mr Morneau: Yes, certainly the general public can use it once they're trained and we agree that they should be trained to certain standards before they use that machine. With regard to the fatalities that it may cause, I would suggest that there are thousands and tens of thousands more fatalities from cardiac arrest every day.

But I understand your concern. All I can say is I suppose you might be talking about the one-in-a-million chance of something like that happening if someone doesn't have the training and if they go ahead and use it for some reason and everything comes into place that they cause this accident, that might happen. I'm sure the manufacturers or whomever you're quoting here, as per a lot of manuals you read, are very careful in the way they word things; they want to cover their behinds in case anything happens.

My experience is that those things don't happen, and when they have happened, they've been minor. The paramedic I'm thinking of, the situation where they were touching the stretcher when it went off, the electricity was going through the two pads. It was just a slight shock. It didn't require treatment or anything; we just know about it. So even the instances that have happened have been so minor that I doubt—I've never heard of a fatality because of someone using a defibrillator. I think the benefits outweigh the slight chance of any of these downfalls.

The Chair: Thank you, Mr Morneau. We appreciate that input.

There are several delegations who, to my knowledge, have not arrived. I'll just check again with the people in the room. City of Ottawa Community Services—I don't think they're present. The other one, city of Cornwall and SD&G Emergency Services—I don't think they are here. Prescott and Russell Emergency Services has cancelled, to our knowledge. Our clerk has indirectly been in touch with the remaining delegation, the city of Ottawa Emergency Medical Services. We understand they may be arriving in 10 or 15 minutes. That would be the only remaining deputation.

Mrs Molinari: And city of Cornwall?

Mr Colle: City of Cornwall cancelled.

The Chair: Wishes of the committee? I might suggest a 10-minute recess.

Mr Kormos: What about the folks waiting, Chair?

Interjections.

The Chair: Coffee is available.

Interjections.

The Chair: I think we're into the recess.

The committee recessed from 1433 to 1450.

CITY OF OTTAWA EMERGENCY MEDICAL SERVICES

The Chair: I think we can reconvene. We wish to thank the city of Ottawa Emergency Medical Services for coming in a little early. We got ahead of our schedule and we really appreciate your coming forward to testify. If we could ask you to identify yourselves for Hansard, and then we have 20 minutes for your presentation.

Mr Anthony Di Monte: Very well. Thank you very much, Mr Chair and members of the committee. Good afternoon and thank you for allowing us the opportunity to come and meet you this afternoon. My name is Anthony Di Monte. I am the director of emergency

medical services for the new city of Ottawa. To my immediate left is Mr Mike Nolan. He's the manager of program development and is responsible for quality assurance and training of our paramedics. To his left is Mr Andy Robert, who is our manager of operations, responsible for the day-to-day street operations of our service.

We'd like to give you a general summary. I know a lot of this will be redundant for the eminent members of the committee. You've heard over the last few days, both in Toronto and here, a lot of the technical jargon, but we feel it's still important to slowly walk you through it, if you'd permit us to do that, and then after that we will certainly answer any questions that you may have.

Just to give you a bit of an overview, the city of Ottawa assumed responsibility for land ambulance as it became a new, integrated city on January 1, 2001. So this is a new initiative for the city, running an ambulance service. At the same time, council probably struggles with a lot of the questions this group has been hearing the past few days: issues of security, issues of value added to the citizens and to what extent we will be saving lives with this type of program. The decision was made to integrate this within our emergency medical service as probably a best practice. We have in the city of Ottawa as of today one of the largest AED programs in North America. We're quite proud of it and I'm going to walk you through that this afternoon.

A bit of the history of our program here: in 1988, the Ottawa-Carleton ambulance service, then run by the Ministry of Health, began its first AED program. Then followed the fire services of the area in 1993. In 1999, the survival rate in the city of Ottawa was only 3.8%, which is dismal when we compare it to other statistics across North America in some more progressive cities. In August 2000, the then regional council approved the implementation of the PAD program within the new city of Ottawa's EMS service to be a way of assuring quality, continuity and distribution where there would be value added. Ottawa is now, as I mentioned, not only the Canadian leader but, as far as we know, the North American leader in placements of AEDs. Some 337 are placed throughout the community of the new city of Ottawa.

This year, regardless of the program, 400 of our residents and visitors will have a cardiac arrest incident and, without an intervention, will die. In one case study which I know this committee has already heard of, we had a 70-year-old male in one of our sports complexes, which is one of our success stories of a total integrated EMS response, AED being one part of the chain of survival. That's why we are so convinced that it is important to put that in the context of a total chain of survival response and emergency medical response. I won't get into more detail; you have probably first-hand knowledge of the person who intervened in that case, and that person probably did a much better job than I would relating after the fact what happened in that situation.

As we speak today, we have 182 public sites that have AEDs. We sponsor training of approximately, when we

complete this by the end of the year, 3,500 targeted staff throughout the city. Our EMS quality assurance and continued quality improvement program assures continuous review of each of those cases. Where it's necessary, we intervene with post-debriefing of rescuers. For the lay public that may use this, it's extremely important for us to intervene afterwards, post-debrief with them. The monitor is then taken and charged by the EMS service. A new one is replaced in the facility. It is then taken and put through its preventive maintenance program and through our quality assurance program. Our medical director is able to review for medical appropriateness the entire case that took place, and we assure the quality of the intervention as well. Then we have an equipment exchange, as I've already mentioned, of the defibrillator that was used immediately on site. The device is replaced immediately in case there would be another incident in that facility. There is no delay.

We also continue a promotion of our Ottawa AED program and community challenge, where we believe there is a partnership. Our corporate citizens have responded well to this, not only the public side of things, where the city has intervened and we have added these apparatus to different facilities, but we believe our very strong corporate community here has stepped up to the plate, through both their employees as well as the visitors to their corporations, and have added AEDs in many of the large facilities such as Nortel, Alcatel, golf courses etc, and many provincial and federal government facilities as well. You can see that this is, from our perspective, more a community approach to this program. It is one component in the chain of survival. On page 4, at the top you see a very small map—probably difficult to read, but it gives you a general idea. All those little red dots are where AEDs are placed throughout our community.

Essentially our vision is that we believe this bill should be enacted into law. We think it is an excellent piece of legislation. We respectfully submit that perhaps there would be a couple of recommendations for improvement:

(1) We believe the bill should include the necessity to add this within the Ministry of Health and Long-Term Care funding to emergency medical services, because we believe this is a medical device that requires medical supervision, quality assurance etc.

(2) Giving the responsibility to the local emergency medical service is probably the way to go, for several reasons: there is already strong control by the Ministry of Health of these programs; there is base hospital medical control, which would control the aspect of medical supervision of this program; and the EMS services, such as ours, are quite capable with the staff to intervene, to support local community services that wish to do this and, within our staffing and our capacity, to replace used defibrillator pads etc, with the appropriate funding.

So those certainly would be two of the recommendations: (1) for funding to be provided to EMS services and (2) for these programs to be devolved under the

responsibility of the local EMS service, whatever it may be across this province, as each community has made its decisions over the last few years.

That's the presentation. As I said, I didn't want to get into too much technical detail. I'm sure you've all heard those things, but I am more than willing to answer any questions and entertain any of those technical details you wish. Thank you very much for your time, Mr Chair.

The Chair: We have about three minutes for each party. We'll begin with the NDP.

Mr Kormos: Ottawa had done all this without any enabling legislation. Why do you need Bill 51 now?

Mr Anthony Di Monte: Certainly, you are correct in pointing that out. There has been a community initiative. It's something that this community did as an initiative and that this council felt very strongly about and we certainly believe in. We believe, however, that legislation would go a step further and provide not only to the citizens and the visitors of the city of Ottawa but to all citizens of the province of Ontario the incentive, the initiative and the capacity to do that. Bill 51, outside of our very myopic view of just the city of Ottawa, avails to all the citizens of this province what we believe is an important program.

Mr Kormos: Not all organizations, places, spaces, have the resources that Nortel does, but then again, Nortel doesn't have the resources that Nortel used to have. I wonder if you had to give back any of those units. I am concerned because I'm confident where I come from down in Welland—we've got little ethnic halls, places like that in smaller-town Ontario—they simply don't have the resources. Do you agree that the government should fund appropriate places: institutions, non-profit organizations who accommodate, let's say, groups of seniors, who have high-risk communities within them? Would you as a taxpayer agree that it's in all of our interests to help these people buy these units and pay for the training?

Mr Anthony Di Monte: I believe that certainly is—and I don't want to defer the question—a decision for the policy-makers around the table.

Mr Kormos: But we need help. Those guys have short arms and deep pockets.

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Mr Anthony Di Monte: I'm not here as a taxpayer, but rather as a public administrator of a system. I just want to reiterate that I not only support this but I believe this is a very important program. We believe that by enabling the legislation it also would provide the capacity, whether it's a direct payment or not, were there to be more of these defibrillators available, to perhaps drive the price down through private industry. I think there are innovative ways to look at that, so it could be direct billing, but perhaps by encouraging private enterprise to say, "Well, we're going to have more clients out there. Maybe we can drive down the cost of these units." There are many methods that I would respectfully leave to your better judgment than my own.

Mr Kormos: I know what you're thinking, though.

Has it been your experience that when these machines have been put into workplaces, been put into public places, that this generates, let's say, more awareness, more discussion about the whole process, including CPR; that people start to get tuned into it and maybe they are easier to talk to about CPR and a broad range of things?

Mr Anthony Di Monte: I would submit to you, without any doubt. As well, it opens a much broader range. You've heard from other experts about the chain of survival. It's one component of the chain of survival. Recognition of a problem is the first thing; activation of 911, the community resources. We integrated this in our police service, in one of our police cars. We train every one of our police officers, our firefighters and our advanced care paramedics. So it's a whole community; it's a chain. It's not just microscopically focused on AED placement.

So the answer, quite directly, is yes, it stimulates discussion within industry, within workplaces, within the community, and it gives us, as an EMS service, the opportunity to go in there and do prevention and really have a grassroots, community approach to health care.

Mr Kormos: And you clearly believe it's imperative that EMS, as part of the public sector, as public servants, as leaders in their communities, be involved in the development of this in respect of communities.

Mr Anthony Di Monte: Without a doubt. I think we are, for lack of a better term, at the end of the chain of survival. With the fire services we've seen over the years prevention programs; with police services, community policing. EMS is just another one of those components. This is a way for us to get into the communities, a way for the communities to become part of the solution and to help us do our job and, at the end of the day, save lives.

Mr Kormos: And you're saying you can do the training as a public sector body?

Mr Anthony Di Monte: With appropriate support. The model that we chose in Ottawa—and I would submit that each community would have to make those choices—is that we didn't take on extra staff and extra public burden to do the training internally. What we did as we ramped this up is that we purchased equipment and then we went out to training institutions to partner with them—

Mr Kormos: You contracted out?

Mr Anthony Di Monte: We did. We contracted out for several reasons. One, they had the capacity to do it. They are already doing it out in the community. They are doing a good job under the heart association norms. As well, it was a way for us to assure the quality assurance through our medical director and that group. So we felt it was very successful. It was contracted out through an RFP and through several teaching institutions, and it was successful for us, so we didn't have to take that extra burden on board.

Mr Kormos: To the private sector?

Mr Anthony Di Monte: There was private sector involvement, yes.

Mr Kormos: And you and I were getting along so well. Thank you very much.

Mrs Molinari: Thank you very much for accommodating the committee today and coming early. We certainly appreciate it.

First of all, I want to congratulate all the work that Ottawa has done on the implementation of this. It certainly is an example for all of the other municipalities to follow.

I was interested in your response to Mr Kormos's question about why you need this bill. You've done a great job at it; why don't other municipalities just follow your example and continue on?

As a legislator, as an individual member and part of the government side, one of the concerns I have raised—and I have done it consistently with all of the presenters because I need to gain a comfort level with some of the issues I have with regard to the danger of having non-trained individuals using the device. You're all professionals, you're all trained in using it, and you're training others to do the same. In Ottawa, my understanding is that you have a system where those who are using it are trained, and it's fairly new.

We heard one presenter earlier, a doctor from Ottawa, who said that this bill is premature. There is a study now being conducted on the effectiveness of PAD and whether or not it is all it is intended to be. His suggestion was, why don't you wait until that study is completed before implementing something like this province-wide; at least you'd have some data?

We've had presenters who are manufacturers of the device, and some have commented that it's foolproof and there is absolutely no danger in someone's using it. Yet when you look at their user's guides and manuals, they highlight all kinds of warnings. I highlighted some of them previously. Philips Medical Systems is one that presented to us yesterday and said there wasn't any concern, that anyone in the public could just take it and use it because it's that easy to use. Yet they caution in all these warnings. One is, "Caution: this equipment is for use only by a qualified person." So a "qualified person" would have to be identified. Who is a qualified person? Obviously it's someone who would be trained.

In the remainder of my three minutes, I hope you will have time to tell me some of the dangers of someone using it who is not qualified and not trained, what dangers there would be to the victim, to the individual and to other bystanders and people who are in the general vicinity.

Mr Anthony Di Monte: As I stated earlier, as you are grappling with some of the security issues, our council did too. We certainly believe the benefits far outweigh some of the risks. I don't deny there may be risks. I know you have probably heard horror stories from fearmongers who talked about past apparatus that you could jump up and down and defibrillate yourself. The newer apparatus has more foolproof systems.

I believe nothing is foolproof. Perhaps the analogy would be that in the 1970s cardiopulmonary resuscitation, CPR, was only done by physicians. Today that

notion would be deemed a little ludicrous, because the lay public can certainly do that well. I believe this is another stepping stone toward that. As well, some of the risk factors—once upon a time we didn't have fire extinguishers in every building and in every public room, and there were risks for that. You could use a water extinguisher on an electrical fire. There may be dangers or hazards, but I think the benefits far outweigh the hazards. I submit to you that it's the same thing with AEDs.

Quite clearly, our position is that only trained people should be using this apparatus, and as such ours are mounted in facilities, fixed in facilities. There's an alarm when you open the thing. Yes, I know what the question will be. Absolutely, a teenager will do that and somebody can open it up. They are in areas of high visibility where there's staff, and we take all the reasonable precautions that anybody in any society does with regard to things that may have risks. Again, I truly believe the benefits far outweigh those minimal risks. However, it hasn't been our experience in the short amount of time we have been using them. We haven't had any incidents, and I'm touching wood that we never have an incident with regard to misuse of that apparatus etc.

Directly to some of the risks, I believe there are probably more technical people to give you those things. But as far as our program is concerned, and what we would recommend to this learned group, it should only be trained personnel who use it. The program should be based that way. While they are placed in public realms, certainly there is always a risk. But as I said, I think you can negate those risks by putting them in areas where they are very visible and fixed to the walls—there is that alarm system—and where there is permanent staff. I think there are a lot of counterbalances you can do. Without being melodramatic, and respectfully, that's not my objective here, I submit to you that 70-year-old who is at home with his family—I would perceive that their view on a PAD program is probably different from the naysayers who perhaps have been trying to dissuade this committee from moving forward.

1510

Mr Colle: Did you or any of your family ever go to St Pat's college?

Mr Anthony Di Monte: No, sir.

Mr Colle: That's an inside thing.

I certainly want to congratulate the emergency services in Ottawa and city council for being so progressive and such a model for the rest of the country, along with Windsor, which has a program perhaps. I think you're doing a service and maybe setting a standard for the province and the country. I think you took a risk to save people's lives by setting in place a comprehensive program that I hope the province will copy as its model.

You have really dampened a lot of the fearmongering, which took place with CPR, about machines exploding. Somebody mentioned the arguments about air bags being dangerous, too. They say: "Danger." But remember the hearings on seat belts? "Don't use those seat belts. They could rupture your spleen."

So I certainly want to thank you, and please pass on my thanks and the thanks of all my colleagues here for the great work EMS in Ottawa is doing. I really do think this is going to be the model that will be replicated. I'm going to pass on to Richard Patten.

Mr Patten: Likewise. Your cousin Dean did an admirable job earlier this morning.

Mr Anthony Di Monte: It's problematic having a relative in the same business.

Mr Patten: No, not at all. Just on the training issue, I think everyone says the ideal situation is for people who are trained to use this thing. This is just pushing the envelope a little further to try to engage the community, beyond professionals. It attempts to stimulate training, of course, but it seems to me we're pretty close, having gone through the latest piece of technology. I remember using one a few years back when I was with the YMCA, and it was about this big. I saw the one that one of the city staff—the person who actually used it in the case of the 70-year-old is here with us today, and someone else from the Red Cross was showing me a little, tiny package that is quite amazing.

It's almost at a foolproof stage, it seems to me. In any hearings you'll get those who will find the most definitive possibility of an error, and of course most systems have that. Obviously you support training for users. But knowing that we're moving toward trying to engage the public a little more in this and the advancements in technology, what suggestion would you have, either in terms of an addition to the bill that might answer that question or in terms of initiatives a city might take through city council or in conjunction with organizations etc, public education and awareness campaigns or what have you? What kinds of suggestions would you have to move the yardsticks along?

Mr Anthony Di Monte: You raise a very good question. Now we're entering the realm of the hypothetical and, as you say, pushing the envelope. Certainly I can give you an opinion on that; there are some innovative things that are taking place. I concur with you that the technology—foolproof, perhaps, is not the best word, because there's always minimal risk and you have to balance that and make decisions as legislators. There are examples of communities that are starting to look at the possibility—I've heard, but I don't have the factual information here—of a closed-loop training program on a little video screen about how to do CPR while you're waiting in an airport. I've heard of programs in schools, as well, where in the washrooms, instead of bringing your own reading material, you have ABCs of how to do CPR. Perhaps we could push the envelope and have basic—I would certainly suggest, at the point we are today, that training is probably the right way to go to start with. But perhaps as a refresher to that, you could have that interactive type of thing or that type of reminder, a refresher—as I said, while you're in the washroom, instead of your reading material, being reminded of what you learned in training.

I think there are all sorts of initiatives. Perhaps, as a group of legislators, something that has been explored in

other jurisdictions in North America: looking at the education programs in phys=ed, that it be part of the education program that you take a CPR course in high school and every year that's refreshed. Perhaps we can push the envelope and look at AED as another component. I think there are a lot of things to do out there.

Again, I'd risk entering a realm that wouldn't be my level of responsibility. But each community can look at some of those innovations, and perhaps there are communities that will find solutions we don't have here today or haven't thought of. I think that's the environment we want to create, so we can find the best ways of doing things. Perhaps to repeat, we've been very successful in the partnership role. I think the public sector has a very big role in the leadership. We've had our corporate partners who have helped us a lot in this program, and I think enabling legislation such as this will just give us a better tool to move forward.

Mr Patten: You have some experience under your belt now. Are you keeping track of your experience; in other words, is your data collection able to tell you the time that has elapsed and what happened and the success rate and all that kind of thing?

Mr Anthony Di Monte: Absolutely. That is an extremely important part of our component. We analyze each and every case. The medical director looks at it. We look at ways we can perfect, move forward. Successes, non-successes—was it a question of the system, or was the pathology of the patient such that unfortunately we just didn't have a patient to resuscitate? So, yes, every one of those cases.

As I said, our police service—we train them all, and we've added in every marked police car a defib on board,

the one you saw, the little one. They just started operating and responding to calls in June as part of our tiered component, and they've already intervened in four cases. In two of those cases, they converted patients. Those patients didn't go on to survive, as we were successful in the Nepean incident, because of other pathology. But the machine did what it had to do. It took a ventricular fibrillation and converted it to an appropriate rhythm. Those patients didn't survive in hospital for other reasons. The other two cases were traumatic cardiac arrests where major trauma had occurred as a result of a car accident or a head-on collision. Unfortunately in those cases—and the literature will show you medically—there was no chance of survival.

But we're seeing great community involvement. We have police, we have firefighters who have first aid and have defibs on board. Now we're moving to bring all our paramedics to the advanced medical care level. So that whole systems approach with the lay public and defibrillators—that's what we want to reiterate. We believe it's not one person but a community approach to that. This legislation certainly would move us a step closer, we believe, to where Ottawa is, but provide that capacity to all citizens and visitors across this province.

The Chair: On behalf of the committee, I would like to thank you for your presentation. This concludes the hearings on Bill 51.

Mr Colle: Thanks, Mr Chair, for your patience.

The Chair: I think any further direction on this bill will be once the House has reconvened.

The committee is adjourned.

The committee adjourned at 1518.

STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Wednesday 5 September 2001

Journal des débats (Hansard)

Mercredi 5 septembre 2001

**Standing committee on
justice and social policy**

Subcommittee report

Nutrient Management Act, 2001

**Comité permanent de la
justice et des affaires sociales**

Rapport du sous-comité

Loi de 2001 sur la gestion
des éléments nutritifs

Chair: Toby Barrett
Clerk: Tom Prins

Président : Toby Barrett
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY

Wednesday 5 September 2001

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Mercredi 5 septembre 2001

The committee met at 0959 in room 151.

The Chair (Mr Toby Barrett): It now being 10 o'clock, I wish to commence proceedings. Our agenda for the standing committee on justice and social policy for Wednesday, September 5, 2001, and over the next three weeks will be Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts.

SUBCOMMITTEE REPORT

The Chair: As our first order of business, I ask for a motion and the reading of the minutes of the subcommittee meeting that was held July 30, 2001. Mr Peters, you are now duly subbed in.

Mr Steve Peters (Elgin-Middlesex-London): Mr Chair, I move the report of the subcommittee.

Your subcommittee met on Monday, July 30, 2001, to consider the method of proceeding on Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts, and recommends the following:

(1) That the committee schedule public hearings in Toronto on September 5, in Caledonia on September 10, in St Thomas on September 11, in Chatham on September 12, in Clinton on September 13, in Owen Sound on September 14, in Kemptville on September 17, in Peterborough on September 20, and in North Bay on September 21, 2001.

(2) That the committee commence its clause-by-clause consideration of the bill after the House comes back.

(3) That the clerk place an advertisement on the Ontario Parliamentary Channel and on the Internet. If possible, an advertisement will also be placed in the major English and French newspapers in each of the locations of public hearings. Additionally, if possible, an advertisement will also be placed in some of the major agricultural newspapers.

(4) That the Chair, in consultation with the clerk, make all decisions with respect to scheduling. The Chair and clerk will attempt to create a balanced set of hearings.

(5) That the deadline for making a request to appear before the committee be August 27, 2001.

(6) That the deadline for submitting written submissions be September 14, 2001.

(7) That groups be offered 15 minutes in which to make their presentations, and individuals be offered 10 minutes in which to make their presentations.

(8) That the Minister of Agriculture, Food and Rural Affairs be offered 30 minutes in which to make a presentation. Following the minister's presentation, each party will be offered five minutes to make statements and ask questions.

(9) That the Chair determine whether reasonable requests by witnesses to have their travel expenses paid will be granted.

(10) That the research officer prepare a background paper containing information on other jurisdictions in Canada, the United States and Europe. The research officer will also prepare a summary of recommendations.

(11) That the clerk be authorized to begin implementing these decisions immediately.

(12) That the information contained in this subcommittee report may be given out to interested parties immediately.

(13) That the Chair, in consultation with the clerk, make any other decisions necessary with respect to the committee's consideration of this bill. The Chair will call another subcommittee meeting if needed.

I move that these minutes be adopted.

The Chair: Thank you, Mr Peters. We have a motion on the floor. All in favour?

Mr Doug Galt (Northumberland): I would like to direct a question to the clerk. It has to do with the travel and the other sites that we're going to. I do not have any information on those at this point in time. I'm wondering if any of these could be collapsed together. We're going to some nine different sites. It seems rather excessive, and I'm just wondering what kinds of requests we've had at these several locations and if in fact they could be collapsed together.

Clerk of the Committee (Mr Tom Prins): The information has been sent out. I can make sure you get agendas for all days. I can make sure you have that in the next half-hour. It may be difficult to collapse days at this point.

Mr Galt: So you're saying all are filled?

Clerk of the Committee: Yes, the days are filled, and I can make sure you have agendas shortly.

Mr Galt: It just makes it awkward to be sitting here voting on this and have no idea of what's going on in these next days. I don't know the locations we're going to. I'm being asked about what hall or what hotel we may be in and I'm unable to let people know.

Clerk of the Committee: I can make sure you get all that information.

Mr Galt: It would be very much appreciated. It's rather late, when the first of the hearings are starting, but I would appreciate that within a half-hour.

Clerk of the Committee: Sure.

The Chair: We have a motion on the floor. Any other questions? All in favour? Those opposed? Seeing none, I declare that motion passed and that order of business closed.

NUTRIENT MANAGEMENT ACT, 2001

LOI DE 2001 SUR LA GESTION DES ÉLÉMENTS NUTRITIFS

Consideration of Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts / Projet de loi 81, Loi prévoyant des normes à l'égard de la gestion des matières contenant des éléments nutritifs utilisées sur les biens-fonds, prévoyant la prise de règlements à l'égard des animaux d'élevage et des biens-fonds sur lesquels des éléments nutritifs sont épandus et apportant des modifications connexes à d'autres lois.

STATEMENT BY THE MINISTER AND REPONSES

The Chair: Our next order of business is a presentation from the Minister of Agriculture, Food and Rural Affairs, the Honourable Brian Coburn, MPP.

Hon Brian Coburn (Minister of Agriculture, Food and Rural Affairs): Good morning, Chair and members of the committee. I'm very pleased to be here this morning. Thank you very much for giving me this opportunity.

Before I get into some of the details of the legislation, I'd like to express our thanks and appreciation to the large numbers of people who contributed and participated in the consultation process. As you all realize, this process of consultation was extensive, wide-ranging and carried on for a considerable period of time. That involved literally hundreds of farmers and rural residents, representatives of agriculture associations and community organizations, municipal staff and officials, environmentalists and engineers; in general, people who cared enough to participate in the consultation process.

In addition to that, there were others who took considerable time to prepare written submissions to us, in short, who understood just how important it is that we get this piece of legislation right.

I also want to acknowledge the outstanding work done by my parliamentary assistant, Dr Doug Galt, and the Chair, Mr Toby Barrett. At that time he was parliamentary assistant to the Minister of the Environment. It was their capable leadership that ensured the success of the province-wide consultations that occurred over the past year.

I also want to recognize the willingness and the co-operation I have received from the Minister of the Environment to ensure that this proposed legislation does realize its goals of protecting and enhancing the health of the environment while sustaining and promoting the competitiveness of the agricultural industry.

Also, if it wasn't for the initiative of the former Minister of Agriculture, Ernie Hardeman—he recognized the need for legislation such as this, and acted on that recognition to commence the progress.

In the end, many, many people have contributed to the development of the proposed nutrient management legislation. So part of the process was balancing all that input that helped us with the proposed legislation that would, by putting in place preventive measures to address the effects of agricultural practices especially as they relate to land-applied materials containing nutrients, protect our water, our land and indeed our quality of life.

Just as I believe that we did get it right, so too do our stakeholders that were most affected by this proposed legislation.

The vice-president of the Ontario Federation of Agriculture has said that “this proposed legislation closely mirrors much of what Ontario farmers and their organizations have been seeking.”

The chair of Ontario Pork describes it as “good news for the primary agricultural producers of this province.”

The Ontario Farm Environmental Coalition said that Wednesday, June 13, the day I introduced the proposed legislation for first reading, was a “good day” for agriculture.

And the president of the Bruce County Federation of Agriculture expressed hope that the government's proposed Nutrient Management Act “will provide the strategy that will guarantee the future of agriculture and rural development.”

That strategy is to provide clear standards, based on the best practices that many farmers already use, and to ensure sustainable growth, safeguard the environment and make rural Ontario attractive to economic investment.

Yet as proactive and as environmentally responsible as our farmers have been, we have nonetheless tried to achieve consistent, province-wide gains with piecemeal, localized efforts.

What we need is an integrated and comprehensive approach in all parts of Ontario. What we need is a clearly articulated and common set of goals.

The proposed legislation would give Ontario that effective, province-wide nutrient management strategy by building on the successes and best practices of our farmers, and by focusing the efforts of the agriculture

industry, municipalities, the Ministry of Agriculture, Food and Rural Affairs, the Ministry of the Environment and other partners in government and throughout our communities.

The old axiom, which has been said before and is worth saying again, is that we work better when we work together toward a common goal.

In developing this bill, we were guided by the results of the extensive consultations conducted over the past year. We were guided by our desire to address the concerns of the Environmental Commissioner of Ontario, expressed in the July 2000 special report entitled *The Protection of Ontario's Groundwater and Intensive Farming*.

We were guided by the recommendations contained in the January 2001 *Managing the Environment* report, which shows that managing the environment requires a new, concerted approach that recognizes the responsibilities, the expertise and the resources of a host of provincial ministries, municipalities, industry and partners in the scientific community.

And we were guided by this government's commitment to Smart Growth, which calls for well-planned and environmentally sensitive development.

1010

That's why, colleagues, the proposed Nutrient Management Act, 2001, sets out a comprehensive and integrated approach to all land-applied materials containing nutrients, ensuring that they will be managed in a sustainable, beneficial manner which results in environmental protection and public confidence in future agricultural and rural development.

That's why the proposed act would provide authority for regulations governing several areas, including making nutrient management plans mandatory; requiring the certification of commercial land applicators of materials containing nutrients; setting distance requirements for manure and biosolids application near wells and waterways; establishing and delivering associated education, training and certification programs; and establishing minimum quality and application standards for land-applied materials containing nutrients. Those are some of the items that are covered in the bill.

The people of rural Ontario asked us to do what it takes to protect their quality of life: to clearly outline roles and responsibilities relating to the management of land-applied materials containing nutrients; and to provide a framework that allows a balance between agricultural growth, environmental sustainability and community well-being.

Our proposed Nutrient Management Act would allow us to do all that. It would provide the authority to establish province-wide standards, the authority to conduct inspections, the authority to issue compliance and preventive orders, the authority for provincial enforcement and the authority to impose a range of penalties.

At the same time, this proposed legislation would allow an approach to regulation that recognizes the different risks associated with different types and scales

of farm operations. It would support an innovative approach and an interdisciplinary and multi-sector regulatory framework.

We would work with our partners in government, both at the provincial and the municipal levels, and with key industry and community stakeholders to see that strict land application controls, including seasonal and timing restrictions, setback requirements, quality criteria, testing requirements and registry requirements, are adhered to.

The bill will establish provisions for alternate service delivery of activities such as the review and approval of nutrient management plans, and the operation of a registry for those plans.

The proposed legislation would also establish provincial inspection and investigation powers. These powers would be consistent with those given to provincial officers under the Environmental Protection Act. These officers could, for instance, enter a property at any reasonable time with or without a warrant. The bill will allow these officers to make an order directing compliance with the proposed act, or to take preventive action in order to ensure compliance.

The proposed Nutrient Management Act will also allow local advisory committees to be created. They would promote awareness of the new standards and they would mediate as required. Lastly, it would establish the right to appeal to an Environmental Review Tribunal, as well as to the director or indeed to the minister.

To this point I have been speaking only about what the proposed legislation would accomplish here in Ontario. But it will also have a beneficial effect outside this province, in the global marketplace. Consumers everywhere want assurances that the foods they eat are not just of high quality, are not only safe, but also that those foods have been produced with environmentally sustainable practices, and in the future, that desire for those assurances will become a demand. This proposed legislation would help Ontario's agri-food producers anticipate that demand. Clear, consistent standards and regular audits and inspections are measures that will send a clear signal to consumers everywhere that Ontario's farmers have once again raised the bar.

Of course, nothing comes for free. But on the other hand, every sound investment also yields a return, and Ontario's farmers know that. That's why so many of our primary producers have already voluntarily invested their money in environmental stewardship. More than 17,000 environmental farm plans have been completed and implemented. Best management practices have been adopted on farm after farm, and producer upon producer has changed their production practices, not only to save money but to enhance their products and safeguard the environment.

These farmers know that by adopting this proactive approach, they are ensuring that valuable resources are being well managed. They are also beginning to realize returns on those investments. They are winning new markets and they are expanding existing ones. They are finding new efficiencies and making productivity gains.

By ensuring this approach is adopted across the province, we can only enhance Ontario's reputation as a producer of outstanding agri-food products.

The proposed legislation would also strengthen the business climate in which Ontario's farmers operate: clear rules and consistent application of these rules. It means that investment decisions can be made wisely, with the certainty that those rules aren't going to change tomorrow.

Whether the farming operation is in the southwest, east or north of this great province, whether it is large or small, whether it is livestock- or crop-based, every farming operation would be able to take advantage of that stable business climate, able to make sound investment decisions and able to reap the benefits of those investments. As we know, when farmers prosper, rural communities prosper. In fact, all of us in Ontario prosper.

The proposed Nutrient Management Act would enhance the reputation and competitiveness of our agri-food industry, it would protect the quality of life that we all value so highly and it would indeed allow Ontario to continue to be a leader in environmental stewardship.

The Chair: Thank you, Minister, for that presentation. At this point each party will have five minutes for either statements or questions. We will conduct presentations in rotation and we will begin with the Liberals.

Mr Peters: Minister, I'm glad to have you here. As you've opened your comments, one of the things that has troubled me is that as a result of some incidents taking place around the province, agriculture has been made a scapegoat for water quality problems. I think it's important that we recognize right off the bat that each of us, be we urban or rural, has a collective responsibility for what has happened to the water quality in this province.

We know too that this legislation has been a long time in coming. You made reference to the consultations that had taken place previously, and that has led us to this point here. We know that people, municipalities and, most important, the farmers of this province have been looking for this legislation. With these public hearings, though, we need to keep our minds open. As we tour the other eight municipalities, I believe we need to listen to what's being said out there so we ensure that this is going to be the best legislation possible. We need to build on those previous consultations and use what we're about to hear to ensure that this is the best piece of legislation that we're going to put forward.

We know that in the presentations that are going to be made, the people are speaking to the bill. One of the difficulties I think we all have, and I know there are procedural issues to deal with—it's the regulations that are going to be of utmost importance to people out there. I truly hope, once it gets to that point, Minister, that the regulations aren't going to be cut and dried, "This is the way that's it's going to be." I think there are going to be individuals and organizations out there who are going to want to have some comment on those regulations. I hope, as we continue to consult, that when those regulations are

developed we will give individuals an opportunity to make some comment on that.

Another area that isn't addressed in this bill, which you alluded to but we need to keep in mind, and I think we're going to hear it through the hearings, is the question of capital improvements that may be required. You talked about the nutrient management plans and the strides that farmers have been making, but we know that the potential exists for some major capital improvements that are going to have to be made. This is an issue we can't lose sight of. We can't place everything on the backs of the farmers. At that point, as the rules and regulations are developed and improvements are going to have to be made, we need to keep in mind what the cost is going to be and that government, in my opinion, is going to have to be there to work with the agricultural industry.

1020

The other investment we need to keep in mind is that we know ministries of environment and ag, food and rural affairs have had cuts made to them, and we need to ensure that investments are made in those ministries to deal with the enforcement questions, and I'll come to that in a moment.

Another issue that I think we'll hear on these tours needs to be addressed is, we talk about partnerships of different ministries working together and working with the agricultural community, but a key partner and player in all this is going to be the municipalities. We need to ensure that we get input from them, but also that it's clear to them what their roles and responsibilities are going to be.

Enforcement and the enforcement powers: this in some ways alludes to cuts that have been made to ministries. We need to make sure those individuals first and foremost have a good knowledge of the agricultural industry. But we need to also ensure that the financial resources are there for training and education and the dollars that are going to be required for enforcement. Again, that's not clear right now, but we do need to ensure that those dollars are there.

Minister, I think we all know—everybody sitting around this room and people around the province—that this is probably one of the most anticipated pieces of legislation to come forward and a piece of legislation that is going to have ramifications on the agricultural industry for many years to come. I guess my only question to you is, at the point of the regulations being developed, will you give consideration or assurances that there will be an opportunity for input to those regulations?

The Chair: Time is up, but I will permit the minister to answer very briefly.

Hon Mr Coburn: Certainly that's very much our intent, given the consultations over the past year that have brought us to this point. It's important to me, to our ministry and to all of us, the stakeholders, that we get it right. So there will be all sorts of opportunities as we develop the regulations. It's not meant to drive a square peg into a round hole; it's meant to bring people along

and understand the importance of this legislation so we have sustainability in our agricultural industry and in our environment. So, yes, there will be ample opportunity.

The Chair: Ms Churley, five minutes, please.

Ms Marilyn Churley (Toronto-Danforth): Thank you for your presentation this morning, Minister. This has been a long-awaited response, particularly to the post-Walkerton situation, as we all know. Your predecessor has been out there consulting, and finally we've come to the point where we're here discussing an actual bill, which is very welcome.

I want to ask you a few questions about the bill. I'm sure over the course of the hearings—by the way, I would say to the members as part of the subcommittee that was making decisions about where to go, there was a huge amount of interest across the province from all walks of life who want input to this. I'm really pleased to say there will be a good opportunity for people across the province to have their say and be involved in this very important piece of legislation.

I have several concerns about it, and of course that's why we're here, to talk about some of those concerns. Hopefully we can make amendments to improve the bill at the end of the day. One of the things that is very clear about this bill, and you of course alluded to this yourself, is that it's enabling legislation, that it's broad strokes but it doesn't have a lot of meat on it to date. Of course, the object of this is to hear from people and put the meat on through the regulations.

One of the concerns I've been hearing from people, particularly from municipalities, is that they feel they don't have enough input to the process. In particular, there is a concern from some municipalities that this legislation will override their right and ability—which the right-to-farm act has in fact been doing as well—to write their own strict bylaws around perhaps the larger pig farms or whatever, that this will override their ability as municipalities to control what happens in their own area. My question is: what will the municipalities' role be in the writing of the regulations, and will this legislation, at the end of the day, override their ability to make bylaws to control what happens in their municipalities?

Hon Mr Coburn: Certainly municipalities are important stakeholders in this entire process. They have an opportunity to provide their input, raise their concerns, identify some of the challenges they're facing so we can take that into consideration when developing the regulations. As proposed in this piece of legislation, it will supersede anything that's in place now. In recognition of that, though, we've identified advisory committees—and it's also at the suggestion of municipalities that they have advisory committees. This becomes a vehicle in which they can identify some issues of local concern that we can take into consideration and provide some advice to us.

Ms Churley: OK. Again, hearing from some municipalities that grew somewhat tired of waiting for the province to act on this really bubbling issue of what's referred to as intensive farming, they've implemented

some tough bylaws of their own, particularly putting caps on some of the large-scale livestock farms. They're concerned that those restrictions, which they believe are important to their municipalities, will be lost once these regulations come down. So I take it they will then have an opportunity to be involved in the writing of the regulations so that they can have some control of their own areas and municipalities. Is that correct?

Hon Mr Coburn: That's correct. Everybody's important to us who has an interest in this particular issue and this bill and in writing the regulations. That'll be an open process where we'll entertain all suggestions in helping develop those regulations.

Ms Churley: Right. Which ministry and minister will ultimately be responsible? That's not defined in the bill, and we're all anxiously waiting to know who's going to be responsible—a very important question.

Hon Mr Coburn: The Ministry of the Environment. The caveat we have introduced in this piece of legislation, though, is the fact that training is a big component of this, and knowledgeable individuals are going to be part of the enforcement of this legislation. If an individual is knowledgeable in the agricultural side of it, that's an important part of this. We heard that loud and clear through the consultations.

The Chair: One more minute.

Ms Churley: Can I ask why, in this bill, you're giving such a long time frame to implement it? I think it's four to five years. As you've stated, there have been volunteer practices in place for some time. Why would it take so long?

Hon Mr Coburn: Well, I'll tell you: we have over 67,000 farms in Ontario, and they produce over 200 commodities. So when you compare Ontario to any other jurisdiction in this great country, we're the leaders, and that is a very complex situation. As I indicated to Mr Peters, this is not intended to come in and drive a square peg into a round hole. It's to work with the stakeholders to strengthen our agricultural and food business and develop policies that respect our environmental needs and sustainability, both environmentally and in the agri-food business. We want to work with all the stakeholders to bring this in in a responsible fashion. So it's the complexity of it, and it's the large agricultural community we have. As we go down the road I think we'll find that many of them are up to snuff already.

The Chair: In rotation, we now go to the PCs. Dr Galt.

Mr Galt: Thank you, Minister, for an excellent presentation. It was very informative and an excellent overview of Bill 81, which you're responsible for.

Minister, what I'm hearing quite regularly as we're bringing this bill out is the concern that farmers have over cost. Do you envisage how your ministry will deal with the cost as we move down the road?

1030

Hon Mr Coburn: That's always a concern. Whenever there's a change or new regulations or we're adopting new practices, that's always one of the key components.

We have worked closely with our stakeholders and we'll continue to do that to be able to identify some of those areas that may present some challenges. But that's also another reason why we have suggested a five-year phase-in for many of the sectors in our agricultural community to adopt some of these practices. So there's a recognition, but we'll be working closely, along with municipalities, in identifying some of those concerns as we move through it.

Mr Galt: Enforcement is going to be carried out from the environment side. I know it's a ministry basically for enforcement. Some of the farmers are very concerned about some of those activities and just whether there will be empathy. I know you mentioned the excellent training and all of that kind of thing. Why has that decision been made? We do have some inspection in OMAFRA. Why are we going to environment for the inspection?

Hon Mr Coburn: I'm also concerned. As Minister of Agriculture, I'm also concerned that we have people who are knowledgeable in the agricultural sector and all of the various commodities that we produce, so that when they do go out to enforce any piece of legislation, they certainly have an intimate knowledge of what they're working with. It has been entrenched in here that that will be the case, and that's very important to me.

In terms of being able to operate more efficiently, if there are inspectors out there, that will be part of the regime. But the knowledge base and the education and the training of them is an important piece of this proposed legislation.

Mr Galt: You had a question a moment ago about the cost. There are some possible supports out there like healthy futures. Is that something that would apply to this kind of a situation, would help with nutrient management plans or with some of the things farmers may have to do? Is that an area they can look to for some financial—I know Mr Peters was concerned about it and I'm just wondering if you wanted to put anything on the record as it relates to healthy futures.

Hon Mr Coburn: Healthy futures is a \$90-million program, and part of the thrust of healthy futures is to improve rural water quality and make efficient use of water resources. We've had applications. In fact, we've approved a number of them, and this was prior to this being introduced. That's as with many of our programs, and the goal of them is to enhance and improve some of the target areas that we have in our communities which are presenting some of the challenges. This is one of the programs that does that. We have approved some and there are some applications in there that the board is presently looking at.

Mr Garfield Dunlop (Simcoe North): I just have a couple of quick questions. First of all, I noticed on the agenda for the other days that a number of municipalities are making presentations to this committee over the next five or six days at least. So I think it's important to know that some of the municipalities have already made steps in this way in their zoning and official plan amendments and are very concerned about what exactly is in this bill.

I was curious: in other jurisdictions, not only in Canada but in the United States and maybe even in Europe, is there anything else, is there any other piece of legislation anywhere that mirrors this which has been successful and we can say it's already been implemented, or is this, as far as you're concerned, a state-of-the-art nutrient management plan for the world?

Hon Mr Coburn: There are a number of jurisdictions that have implemented their nutrient management plans per se in one form or another in different areas, certainly in Canada and down through the States and in some other jurisdictions overseas, and we've taken a look at all of those. So we've learned from some of them. I guess the underlying goal in all of what we've tried to do is to be sensitive to a number of things. At the end of the day, we want to make sure that we protect the concerns we have for the environment—water quality and land use—and take advantage of some of those farming practices. Don't go and reinvent something that is working well and which we can build upon. We've learned that from some of the other jurisdictions.

Some of the other things in terms of cost, what we've had fed back to us in terms of compliance, are to provide a phase-in period of time so that the change can be made, and you'll have more compliance with that, and to work with your stakeholders, to listen to the concerns and try and address them in a forthright manner so it is clear. I think one of the things we've learned is that the regulations and the bill itself have to be clear, and they have to be consistent so everybody knows the rules by which we're playing and that there will be support. As I go across the province, I'm getting a lot of good comments on the legislation, that it's needed, and there's a willingness by people to work with us to make sure it's implemented properly and that it does the job it's supposed to do.

The Chair: I realize five minutes is not very much time, but we do have three weeks of hearings coming up. Thank you, Minister.

SIERRA LEGAL DEFENCE FUND

The Chair: For our next order of business we go to delegations. I realize we're a few minutes early for the Sierra Legal Defence Fund. Is the Sierra Legal Defence Fund present? Oh, there we are, sir. Please have a chair. For the purposes of Hansard, we would ask you to please identify yourselves so the committee knows who it is speaking with, and proceed.

Mr Jerry DeMarco: For the record, my name is Jerry DeMarco. I'm the managing lawyer of the Sierra Legal Defence Fund here in Toronto. I'm also a registered professional planner. With me today is Dr Anastasia Lintner. She is presently completing her final year of legal studies at Osgoode Hall and has a PhD in natural resources and environmental economics from the University of Guelph. Particularly pertinent to today's proceedings, Dr Lintner did her PhD thesis on protecting

water quality in southwestern Ontario from intensive fertilizer use. I will make—

The Chair: I'll just draw attention to the committee that for organizations we have 15 minutes for presentations.

Mr DeMarco: I understand that Mr Prins has distributed our comments to the committee in advance and those should be before the honourable members. We'll be referring to those comments in the course of our presentation today.

By way of overview and picking up on some of the themes from the earlier comments this morning, it is important to note that this bill as it currently stands does provide the authority for strong regulations, it does allow for the provision of local committees to be created and indeed it is enabling legislation. In fact, it's perhaps a type specimen of enabling legislation. It has very little in it that one can point to as strong standards or enforceable standards because much is left to the regulations.

Whether this bill will be an empty shell or the framework upon which strong regulations are built is completely unknown at this time. Despite comments from the ministry that the standards would be developed over the summer, the public has not yet had an opportunity to even examine those draft standards. Therefore, we're asked to comment on a bill for which the meat of the bill is largely unknown because it is left to regulations. Because of that, our comments are directed to what improvements could be made to the bill itself to ensure that it won't be an empty shell and so that the strong commitments made by the minister and the ministries will indeed be required of the government and future cabinets that are required to implement this legislation, rather than simply being an option for those future decision-makers.

At this stage, our comments are related strictly to the bill, with the knowledge that indeed strong regulations may be coming. But they also could be weak regulations; there could be no regulations under the current bill. That's certainly an area that needs improvement. We'd like to see actual commitments and time lines in the bill for enacting those regulations.

1040

Building upon a further comment from this morning's proceedings, there are questions about the municipal role in this legislation. As the minister frankly admitted, this act as currently drafted would supersede municipal bylaws. So we're left with the possibility that in those areas where municipalities have already taken the lead, if the standards that are promulgated by cabinet are actually lower than those municipalities currently have, this act could actually in some areas lead to a decrease in the amount of environmental and quality-of-life protection for those municipalities. That's largely because of section 60 of the bill, which purports to displace municipal action in this field, even if that municipal action was sought to make more stringent standards.

That runs contrary to a Supreme Court of Canada decision earlier this summer, in which we were counsel

for both environmental groups and municipalities, in which the Supreme Court mentioned that it was important that municipalities be empowered to improve upon, but not lower, standards from higher orders of government. This act purports to say that the municipal role will be deleted in its entirety. I think that section certainly needs to be changed in light of that Supreme Court of Canada case known as *Hudson*.

I will now turn over the microphone to Dr Lintner to provide more detailed comments on some of the other aspects of the bill that we feel require improvement.

Dr Anastasia Lintner: As Mr DeMarco has mentioned, the comments we're making, which you have in front of you, are based on strengthening the legislation as it stands, to try and address some of the potential short-ages or weaknesses. Resulting standards or regulations might not be as strong as they could be to promote environmental protection as well as a sustainable rural community.

I've grouped my comments today around four themes or features which we would like to see within legislation to address the goals that have been brought out by the minister in presenting the legislation. Those four themes are that the legislation should be comprehensive, risk-minimizing, transparent and, finally, feasible. In elaborating on these themes, I'm going to draw from the recommendations we've made to OMAFRA through the Environmental Bill of Rights mechanism of commenting.

If we have a comprehensive Nutrient Management Act, it will deal with all types of intensive nutrient use and all types of substances which will include nutrients within them. So within the definitions, there is an expansive definition of what might be included as a nutrient, but I think that could be improved—and this is our recommendation number 2—by including all intensive uses of nutrients beyond just agricultural uses. Certainly one that comes to mind is golf courses. So there will be other instances where there are land applications of these substances that might lead to environmental degradation, and if we're going to put a mechanism in place through this legislation that can protect the environment, it should be as inclusive as possible in the uses of these substances.

Additionally, if we have mechanisms intended to control degradation of the environment from uses of land application of these substances in other legislation, like the Environmental Protection Act and the Ontario Water Resources Act, then we should ensure that within this bill there is an express way to avoid duplication, so that if farmers are putting forward their nutrient management plans, they aren't also having to put forward some other certificate or approval in other environmental legislation. This avoidance of duplication we have expressed in our recommendation number 7, to find ways to not duplicate or conflict with other environmental legislation.

Under the theme of risk minimizing, within this legislation there are no prohibitive or purposive statements which allow us to see the goals that have been announced as to what this legislation is addressing within the

legislation itself. So in our recommendations 3 and 5, we propose that there be sections which allow the legislation to demonstrate what types of activities are prohibited—and not leave that to the regulations—and what the purpose of the act is, to allow interpretation, that the act is meant to protect water and other environmental qualities, as well as to sustain agriculture.

If we're thinking about risk minimizing, then at a minimum we would expect that there's the ability to have local efforts and local governments like municipalities take into account the unique aspects of their locality when developing caps or trying to have a strategic land-use plan that addresses both environmental and economic interests. So in our recommendation 9, when we address the municipalities, as Mr DeMarco has said, we would certainly like to see some evidence that local efforts would not be reduced by the act of this legislation.

For the transparency, it's been suggested that the accountable ministry in enforcement will be the Ministry of the Environment and that's certainly something Sierra Legal would support, that we ensure that if the goal of environmental protection is going to be met, then certainly the environmental ministry is equipped to enforce those types of regulations.

We would add, in recommendation 6, that with sections which give authority to delegated individuals to approve and certify the nutrient management plans and strategies—and then going on to section 56, which distances these delegates from the crown—our concern is that moving the administration of the nutrient management plan approvals outside of the ministry will have implications both for accountability/responsibility and for the public's right to know what's going on under the freedom of information process.

We would also recommend that there be enhanced public participation through the bill. The potential to have regulations and standards which involve also appointing the local advisory committees—those are just regulations that will come out after the fact. It's not within this bill that there will be local advisory committees, and certainly there's not protections within this bill that the public will be able to participate in the review and approvals process.

Finally, in terms of feasibility, it's been mentioned that there is a concern about the cost both to the agricultural sector and to municipalities of putting forth these new regulations and standards and how that will play out. It's important that generally there are dedicated resources to this new act and its potential protection for the environment, and we would also suggest that there needs to be commitments within the bill about how quickly the standards and the implementation of the standards will be developed after the act comes into force. That recommendation is number 4.

Then just a final note on feasibility: we reiterate that the local efforts of municipalities should not be thwarted by this legislation but should be promoted if they are making standards for better environmental protection than would otherwise be the case.

1050

The Chair: Thank you, Dr. Lintner and Mr DeMarco. We've pretty well used up the time. There could be 30 seconds for a brief comment from all three parties. Ms Churley, we really don't have time for questions but a 30-second comment. We're out of time.

Ms Churley: Thank you for your presentation. I think over the course of these hearings we'll hear more of these concerns, and hopefully at the end of the day we'll all listen to those and incorporate some of your suggestions into the bill. That is my hope.

Mr Galt: Thank you for your presentation. Just a couple of quick comments, one having to do with what is always a problem: how much in the bill and how much in regulation and when should they come forward? As you're probably aware, until the bill is passed, you don't have the authority to make the regulations.

Your comment on section 60: we're concerned and the message we were getting is, "We want uniformity across the province rather than the patchwork pieces we've had up until now," and understandably so, because the municipalities have been trying to do what was right, and our compliments to them for doing that. But we're bringing in legislation that's going to ensure the quality of the water. Therefore, if any municipality was to want less, we don't want that; if they were to want more, we don't want to penalize those farmers with having to meet higher standards in that municipality if it's unnecessary. We want to be fair with them. So uniformity is certainly important. As you look at a nutrient management plan, there is some flexibility within that to recognize specific areas.

The Chair: Mr Peters, 30 seconds.

Mr Peters: He had the minute. I know it's not going to be possible today to ask the question, but I would very much like to hear from you further on your recommendation number 2, where you talk about golf courses, and where else you feel that we should be going with this. You're suggesting here that we go beyond just agriculture and you use the golf course as an example. I'd very much like to hear from you, and through the Chair, back to the Chair, other areas that you think we should be looking at with this legislation.

The Chair: Dr Lintner and Mr DeMarco, thank you very much for that presentation.

ONTARIO PORK, ENVIRONMENT COMMITTEE

The Chair: Our next order of business on our agenda, I wish to call forward Ontario Pork, Environment Committee. Please come forward and have a chair at the witness table. We have 15 minutes, gentlemen. We would ask you to please identify yourselves and then proceed.

Mr Clare Schlegel: It's a pleasure to be here on behalf of the pork producers of the province. My name is Clare Schlegel. I am chair and I am a hog farmer. With

me are Dennis Zekveld, our environmental committee chair and a hog farmer as well, and Sam Bradshaw.

I can sympathize with Dr Galt in his desire to collapse the meetings, but I also encourage you to take with some seriousness the issue that's before us because it solidifies our future environmentally and sustainably and the economic activity of our province.

I should say that you've got our booklet before you. The speaker notes are there, and behind that is a more detailed presentation that you can look at later on. I'm hoping to speak for seven and a half or eight minutes and have some time for conversation.

At the outset, I would like to say that we're very pleased with the introduction of this legislation and supportive of the principles. We've been calling for it for a long time. We do have some concerns regarding the details of the legislation and have various recommendations and considerations we'll be sharing with you this morning.

Who we are: Ontario Pork represents the province's 4,400 pork producers in many areas, including marketing, environment, research, animal care and quality assurance programs. So we're the official voice of the hog farmers of the province.

Ontario's pork producers in 2000 marketed 4.6 million hogs valued at \$780 million. The total pork industry when you put it together up the supply chain is worth \$4.2 billion and 35,000 jobs to the economy of this province.

Ontario Pork has participated in the consultations and discussions with the government for several years regarding the need for nutrient management legislation. We are pleased the bill provides for province-wide standards that will identify the requirements and responsibilities for farmers, municipalities and others in the business of managing nutrients. The implementation of this legislation will eliminate the current inconsistent patchwork of best practices and bylaws. Bill 81 means that Ontario's pork producers can look to a regulatory environment that provides a comprehensive, clear and effective approach to managing nutrients.

Ontario's pork producers are concerned about protecting the environment and the long-term well-being of Ontario's communities. We want to be certain we can invest in our farms and operate them with confidence and with pride. The Nutrient Management Act, 2001, is the cornerstone in providing this balanced opportunity—and we should emphasize “balanced.” We support this legislation and congratulate the government on its introduction.

We have identified 11 recommendations for deliberation, including both proposed amendments and considerations.

I cannot underline enough how Ontario Pork feels about its involvement and participation in the regulation-setting process. We believe we have a lot to offer and have a track record of making nutrient management work. Ontario Pork, on behalf of Ontario's pork producers, would like to indicate to the committee its request

and commitment to participate with legislators and the government in the regulation-setting process.

Ontario Pork would like to avoid situations where there may be local initiatives to create or enhance bylaws that exceed the terms and standards of the Nutrient Management Act. We recommend that the committee satisfy itself that municipalities are not able to use other pieces of legislation to circumvent the intention of the act, thereby broadening the scope of control on agricultural operations.

Ontario Pork believes that provincial officers would require specific and relevant training to make accurate and fair determinations of compliance—very important. Further, given that family farms are both residences and agricultural operations, we encourage inspectors to use discretion when exercising their powers of entry and inspection on farms. Ontario Pork recommends that the minister can only designate provincial officers who are ministry employees who have successfully completed a training and certification program on agricultural operations and, specifically, nutrient management. Ontario Pork would be pleased to work with the government to develop an appropriate training protocol in advance of the proclamation of the regulations.

Ontario Pork supports the use of local municipal advisory committees as part of the act's implementation strategy for compliance. Such committees would raise awareness and mediate non-enforcement issues. We recommend the creation and use of local county environmental response teams. These teams would respond to a concern, assess the situation and make timely recommendations to resolve the issues. Ontario Pork recommends that in situations where mediation fails, municipalities would refer the case to a provincially trained enforcement officer.

Public information: given that Bill 81 provides for the establishment of a registry to record nutrient management plans and strategies, we believe there should be a specific definition of what information is public and what is private—very important. Ontario Pork requests consideration of an explicit provision on which part of the registry is going to be protected by the Freedom of Information and Protection of Privacy Act. We recommend only the summary of a plan be publicly available, and we can discuss this further.

Addressing biosecurity concerns—again, very important to our future: hog producers employ strong measures and assume great expense to ensure that their farms are as disease-free as possible. We have seen the extensive devastation in Europe from infections such as foot and mouth disease. Biosecurity measures are absolutely crucial to preventing such tragedy being spread on farms. Ontario Pork recommends provincial officers should be fully trained in biosecurity measures. Ontario Pork recommends an amendment to the subset of part IV, section 12, such that all inspectors will act with prudent behaviour and due concern for the premises they visit.

Ontario Pork believes it is important that the review and approval of nutrient management plans be the

responsibility of trained and certified provincial officials. Use of provincial officials is important to maintain confidentiality of record and consistency of practice. We recommend that reviews and approvals of nutrient management plans remain a government activity. Devolution to a private concern should not occur until a history and expertise has been established among provincial officials. Until then, Ontario Pork requests that part I, section 3(1)(c) be interpreted in a way that does not extend the definition of provincial officers to persons other than those appointed under the Ontario Public Service Act.

1100

With regard to new technology, we believe there will be many future advances and innovations stemming from new technologies, and we're seeing some of those right now. It is important to have the capability to incorporate such advances into the act's regulations to ensure effective nutrient management practices. We recommend an amendment under part II, section 5(2)(u), with regard to governing the use of innovative technologies. We recommend an allowance be made to update regulations in order to incorporate appropriate technological advances every other year after this act is proclaimed.

While a number of farms currently use computers, at this time many farmers do not have such access or expertise. Requiring that a nutrient management plan be prepared and filed in electronic format poses a challenge to our membership. We are recommending that copies of paper records be considered acceptable in addition to electronic records. This will allow for flexibility within the regulations and encourage compliance.

Economic impact studies: considering the broad implications of the legislation on agricultural operations, costs incurred to ensure compliance could run into the millions of dollars. This is a significant figure—it's absolutely huge—considering the modest margins that farm operations generate. Ontario Pork recommends that an economic impact analysis be completed to calculate the potential cost of new standards and regulations to the agricultural industry. Following the analysis, we recommend the committee consider an amendment to provide for the establishment of appropriate funding programs to partner with the industry in implementing the act and its regulations at the farm level.

Further, on fees: Ontario's hog producers must finance a variety of costs associated with their agricultural operations. Ontario Pork requests that the determination of additional costs take into account farmers' ability to pay, and there is more detail on this item in the further write-up. Ontario Pork recommends a graduated fee system based on the complexity of the plan. We request consideration be given to minimum and maximum fee amounts, and that the structure be designed to encourage compliance, not making it so expensive that it hinders a farmer's ability to pay.

In conclusion, I urge you to examine our written submission that provides, in greater detail, the rationale for our recommendations and considerations. I want to assure the members of the committee of our commitment

to work with legislators and the government to make this legislation a success.

At this point, we would be pleased to answer questions if we have any time left.

The Chair: We have a little over a minute for each party. We'll begin with Dr Galt.

Mr Galt: Thank you for an excellent presentation with good content. I'd like to make reference to your opening comment about collapsing meetings. The information I was looking for: on Monday, we're meeting for three and a half hours; on Tuesday, three and three quarter hours; on Wednesday, three hours—for a total of 10 hours and 25 minutes—on Thursday, we're presently scheduled for five and a half hours, possibly an extra hour; and on Friday, for three and three quarter hours. That was my concern.

It's very expensive to move committees around. I do respect and emphasize the need to be in locations where it's convenient for people to get to the hearings. In eastern Ontario there are only two, so some of those people are going to have to drive a long way. I'm just looking at efficiency both from the government point of view as well as the agriculturalist point of view. But I respect your comment—very much so.

I'm curious. Would you mind responding to what we heard earlier and my concern as it relates to uniformity of standards across Ontario rather than allowing patchwork pieces later on? Are you empathetic to allowing that or do you agree with the general direction we're headed in at this point in time?

Mr Dennis Zekveld: We agree that we need to have uniformity across the province. There has been a lot of implementation of bylaws, and none of them have been consistent. What that does is make it very uncompetitive; a very uncompetitive atmosphere. The rules are based on whatever rationale. We feel there have to be uniform standards and, if anything changes, it's got to be science and technology that comes into play. There has to be a sound basis for anything to be different. I think there has to be somewhere an understanding of the different—like different watersheds. In some municipalities there may be some things there that someone needs to look at, but overall, I think we need to start at a level base.

Mr Galt: Do you think you can see the flexibility with the development of a nutrient management plan and getting that approval by engineers/topologists?

Mr Zekveld: Pardon? I didn't get the question.

Mr Galt: You can see that flexibility with the development of the nutrient management plan?

Mr Zekveld: Yes, very much so.

The Chair: Mr Peters, any comments or questions?

Mr Peters: I'd like to hear some further comment from you on your section 3.7, government reviews versus private and alternative delivery. To me, it's of utmost importance that it not be delegated at arm's length. I'd just like to have you elaborate a little bit on this point and why it is so important that we not delegate services out.

Mr Zekveld: We believe the rules as they are applied should be as consistent as possible, and that goes for the

reviews and the enforcement. Once you start delegating that out, we feel there could be inconsistencies. Depending on who does it, it could make a difference as to what level the standards will be. That's not to say that, once a level has been established, maybe down the road, we wouldn't consider it, but I think for the time being, in the interim, for at least five years anyway, we need to establish a firm framework for enforcement so that there's a level of consistency and confidence out there.

Ms Churley: I should say I understand your concern about having a level playing field, but I suppose it's no surprise to you that I disagree with you on that—and I'm not from the city. I understand some of the concerns and I've heard them before. Sometimes people from the city move into a rural area and then start complaining about smells and things like that, and I understand that. But there's also the issue that Huron County, for instance, has—what, is it?—10 times more pigs than people, I've heard, and the amount of manure that pigs create is a lot more than people. So you can have different situations in different rural areas. There might be other mitigating factors within that area which would cry out for a higher level of control. I have real concerns about legislation that generally is not, in some cases, stringent enough to deal with particular concerns in different areas. So I disagree with you on that and I think it's going to be a contentious point throughout this whole process.

Mr Zekveld: May I comment?

The Chair: Yes, sir.

Mr Zekveld: My comment to that is that a proper nutrient management plan or strategy in a plan would ensure that the land is available for the nutrients that you're going to apply. That's going to dictate the size of the operation. You're going to have to tie it to land and the nutrient requirements and the nutrients that are already there. So from our perspective, to have uniform standards across the province is going to address the issue.

Ms Churley: But would you agree that there might be some cases where it would not be sufficient, depending on different aspects of what's going on in that municipality?

Mr Zekveld: I think you have to start off at a base and then we need to go from there. There could be some opportunity at some point in time to look at specific situations, but I think a proper nutrient management strategy with proper enforcement will address all of your concerns.

The Chair: I think our time is up. A very quick comment, Mr Schlegel.

Mr Schlegel: I think you raise a very important point. I'd just like to quickly respond to it as well. The communities we live in, our neighbours, our friends, the people we go to church with—we don't want to be seen as polluters; we want to be seen as stewards of the land and caretakers of the soil. Over the last number of years, as it has moved the other way, where we're perceived as being a detriment to the community, it's very difficult to live in those communities. There are obviously sensitive

areas that need to be protected, but saying that, if our regulations are correct at the provincial level, they'll take care of those situations. Then there can even be application across the province so that individuals are not forced to move about simply because there's a local situation that rises up with no scientific background.

The Chair: Thank you, Mr Schlegel, Mr Zekveld and Mr Bradshaw. We appreciate your submission.

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ONTARIO EGG PRODUCERS

The Chair: I wish to call forward the Ontario Egg Producers. We would ask you to identify yourself for the purposes of the committee.

Mr Brian Ellsworth: My name is Brian Ellsworth. I'm general manager of the Ontario Egg Producers. I'm a farmer in my own right and I've been doing that for over 50 years. I feel I'm well versed on what goes on at the farm and the business end of the wheelbarrow, as I told one committee, but they don't do the wheelbarrow any more. Nevertheless, I'm here representing 425 egg producers and 161 pullet growers who produce 40% of all the eggs in Canada. We feel the egg business is very important in this province and of course any provincial legislation that affects our producers is a concern to us.

Bill 81 is an important initiative. We commend the Minister of Agriculture, Food and Rural Affairs for holding these and other public hearings about this bill and for building consensus across this province.

Let me say upfront that egg producers and their families share the ministry's interest in developing clear, consistent and reasonable standards. Our reason is simple: we see ourselves as custodians rather than owners of the land we farm and we're deeply committed to passing these resources on to our children, which many of our farmers do, to ensure our way of life is preserved for generations to come. I'm worried about my own personal family. They've been on the same land for seven generations, and I hope they can continue for some more.

Egg producers have a vested interest in balancing agricultural production with environmental preservation. This approach enhances our lives and ensures our livelihood. The Ontario Egg Producers are strong proponents of environmental management practices. For example, We have instituted a self-managed program that ensures our members handle manure in a way that minimizes any environmental impact, and many of our members have worked with the government's NMAN program and are familiar with it. Our standard practice of record-keeping makes it easy to manage the manure-handling system and to comply with a farm's nutrient management plan. We have field men out in the country who will be seeing that our farmers comply with these requirements. These and other programs complement a stringent food safety and quality program that includes regular on-farm inspections to monitor farming standards.

We are pleased to hear that this legislation will build upon the best management practices that Ontario's producers have developed voluntarily. This is a critical point for egg producers. Our management practices are home-grown solutions, developed by producers whose livelihoods rely on agricultural production that's consistent with preserving our environment. It's only common sense for the government to consider many proven practices that reflect the ministry's goal to promote the economic development of rural communities, which is very important to us.

We recognize that farmers must conform to proper, province-wide management practices. However, they must also be able to manage their operations in an effective and efficient manner, free from arbitrary legal constraints and overbearing costs. These dual objectives can go hand in hand by developing a balanced approach with reasonable and attainable goals. As such, we propose five recommendations in line with this approach.

On the value of nutrients: for a farmer, manure is not a waste product but a valuable fertilizer and conditioner of the soil. Provided that egg producers handle it in accordance with a nutrient management plan, new regulations shouldn't limit the use of poultry manure based on size of farm. This is a contentious issue for some of our farmers who have a considerable number of poultry in one location. They believe it's important that they are not restricted in any way about how large an operation they should have, as long as they handle their manure properly. As I say, it's critical that the new legislation recognize the nutrient value of poultry manure.

On enforcing the new regulations: it makes common sense that the new guidelines operate under the Farming and Food Production Protection Act. That means the Normal Farm Practices Protection Board should supervise practices around manure handling. As such, we expect the Ministry of Agriculture, Food and Rural Affairs will be involved in enforcing the new regulations.

On the number of acres owned by a producer: some suggest a minimum amount of land may have to be owned by each farmer based on the number of livestock. Such a requirement would result in considerable inefficiencies in farming operations that limit acreage without addressing the environmental concerns which gave rise to it. In other words, we're saying it's how you look after your manure, not how big you are. Therefore, minimum acreage regulations are not required to protect our natural resources.

On funding new initiatives: Ontario egg producers are self-sufficient in terms of education and training programs. We're continually training our producers and helping them with these types of programs. Adopting new practices based on the new legislation will be no exception. However, the government still needs to help our family farms in terms of capital investments. Otherwise, the new legislation will slap an additional burden onto our backs, even though we have stringent environment practices already in place.

The government already issues tax credits to big industry for reducing air pollutants. It also provides

money to municipalities for improving their sewage systems. Providing financial support to farmers would be a consistent strategy for the government. This has been done by the Ministry of Agriculture, Food and Rural Affairs in the past and we hope they continue some of this in the future.

On implementing new practices: many producers have a nutrient management plan in place and others are constantly upgrading them. However, we recognize that this legislation will require a more formalized and universal system. Because investments will be required in education and capital improvements, a minimum of five years will be required to ensure a seamless transition.

We've outlined these and other recommendations to the minister and your committee and would be happy to discuss them in greater detail with you following this presentation.

One final note: many egg producers are family-run farm operations. For those farmers, success has as much to do with the number of family members who gather around their own kitchen table as it does with the number of eggs they produce on their farm. It's the farmer's hope that these seats are occupied by three generations—the past, the present and, most importantly, the future. Let's look through the farmer's eyes and ask ourselves, will Bill 81 ensure a seat at the table for the next generation of Ontario farmers? We believe it will, by adopting a balanced approach with reasonable and attainable goals. Let's focus on preserving our natural resources, promoting harmony between the residents of rural Ontario and protecting jobs in these local communities.

Ontario Egg Producers appreciates the opportunity to meet with you today and looks forward to working alongside the provincial government to ensure our rural communities continue to thrive in a healthy and sustainable environment.

The Chair: We now have a little over two minutes for each party. In rotation, we now swing over to the Liberals.

Mr Peters: Thanks for the presentation, Brian. I was wondering if you could elaborate a little bit further on your recommendation number 3, the number of acres owned by a producer.

Mr Ellsworth: We have various sizes of producers. We have very small producers and we have some very large producers. Our basic position is that acreage is not an indication of how good your nutrient management plan is on your farm; it's how you handle the manure and where you spread it. We recommend that the larger ones, if they don't own enough land of their own, make contracts with their neighbours and spread it on their land.

Mr Peters: A second question—and the pork producers made reference to it—is the concern over ensuring that the inspectors, as they come in, don't just walk into one of your barns without talking to you. Within your industry is there concern as well, as with pork producers about the hoof and mouth, over potential threats?

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Mr Ellsworth: Of course, we have a security program on most of our farms where inspectors, or anyone, are not allowed to come in unless they use the proper environmental or security measures, such as clean boots and coats and that type of thing. We would expect that all inspectors would follow this type of security in our buildings.

The Chair: Ms Churley, two minutes.

Ms Churley: Thank you very much for your presentation. It's very interesting. I wanted to ask you if you could elaborate a bit on your self-managed program that you have in place already and your practice of record-keeping. Can you just tell us a bit about how it works?

Mr Ellsworth: Yes. This has grown out of a food safety program that we implemented several years ago under the HACCP banner, where we get the producers to record everything that happens on their farm, people who visit, and they test for salmonella enteritidis and this type of thing in the barns. We've continued to carry that into nutrient management, where we're actually testing the manure they are producing. We're having it analyzed, we're having them do soil samples and we're having them keep records of where they spread the manure and how they spread it.

Ms Churley: That's very interesting. I'm also curious about whether or not your industry, the egg producers, has been having problems in your communities as for instance some of the pig farmers have.

Mr Ellsworth: No. We feel that most of our people are good stewards of the land, and we haven't had any problems to speak of.

Ms Churley: So you haven't had any fights with municipalities?

Mr Ellsworth: We always have some concerns, and this is why we support the government's recommendation that it be provincial standards rather than one municipality or another municipality. In fact, one of our producers said to me that he lives in three municipalities and he has different regulations of what he should do in each one of them.

Ms Churley: Final question; I asked the question before: would there be a different set of circumstances that might mean that a municipality would need to up the ante on the regulations that may exist in time?

Mr Ellsworth: We take the position that farmers should be good stewards and that they obey the rules and regulations—our organization is out there to help them—that they don't need any different rules in any municipalities.

Mr Dunlop: Thank you for your presentation, Brian. I had an opportunity myself to visit my first egg-producing farm this summer. I was quite impressed with the biosecurity measures that were in place for even a very small farm.

I was curious. In your very last recommendation you mentioned that out of 425 egg producers that you have, many already have a nutrient management plan in place.

Would you expand on that a little bit in terms of a percentage of those 425 producers?

Mr Ellsworth: I can't give you the exact number or percentage, but we're visiting them all and we're bringing them on as fast as they come. The larger ones are into that game, some of the smaller ones haven't yet got on to it, and that's why we asked for a phase-in of a five-year period before you expect everybody to be up to the full plan.

Mr Dunlop: Many of them do not have a large acreage with the farm they're on.

Mr Ellsworth: I think it's about 50:50. Many of our producers—we're not like the US where they have large egg-producing units—are, relatively, family units. They have a lot of land, and most of them can cover it. There are a few large ones that rent other land to spread the manure on.

The Chair: Thank you, Mr Ellsworth, on behalf of the egg producers. We appreciate the input.

LORNE SMALL

The Chair: Our next delegation: I have listed on the agenda Lorne Small.

Mr Lorne Small: I have a few copies with me.

The Chair: OK. The clerk can distribute those. Good morning, sir. If you'll have a chair. Individuals presenting before the committee are allocated 10 minutes.

Mr Small: Fair enough. I hope I use less than that.

Thank you very much for the opportunity to come and talk to you today. I'm a sheep producer and am representing sheep producers in our area. I'd just like to emphasize to you that sheep producers in our area are in full support of the initiative that's being undertaken by the Ontario government to provide consistent rules across the province. We congratulate the government for their foresight and perhaps their courage in undertaking this task.

The area that I work and live in is the Wellington-Dufferin-Halton-Peel region. That's probably the fastest urbanizing region of Canada, with a larger population than some provinces. The things we share with our urban neighbours are a desire for a safe, natural water supply, fresh air free of obnoxious odours and land that can safely produce food for generations to come. We trust that the Ontario government will not impose costly regulations without consultation and perhaps compensation.

We ask that regulations in this act be developed in consultation with sheep producers and based on appropriate science. We understand that it's not necessarily you folks who will be drafting the regulations. Perhaps it's you staff doing those sorts of things. We simply would like to be consulted in that process. Regulations that are appropriate for cattle may not be appropriate for sheep, and vice versa. With proper scientific documentation it is easier to understand, explain and for us to accept.

Sheep are a different species, with very different behavioral patterns from cattle. Their flocking habits,

their fear of open water and their very dry manure make us believe that sheep should be treated separately from cattle in regulations.

There are five concerns that we have.

The number of sheep that constitute an "animal unit": we believe if the number is based on reasonable science, it would be in the eight-to-10 range.

The potential regulations that all sheep must be fenced away from waterways: sheep have a natural fear of water and are very reluctant to get their feet wet, and there is virtually enough water in the pasture, so there is very little reason for them to go near water. We simply ask that field studies be used to determine if sheep pose a risk. Sheep fencing for containment is about four times as expensive as fencing cattle, because of their pesky nature.

The potential requirement that all sheep manure must be incorporated promptly after application: sheep producers are very dependent on grazing, making it very difficult to plow in manure and still have a pasture to graze.

The potential regulation that all manure piles must be covered and retained on concrete pads will make it cost-prohibitive for many sheep producers that compost their manure before spreading. We believe that research will show that sheep manure, because of its very dry nature, will behave differently in the environment and will not migrate like other livestock manures.

The potential regulation that winter grazing of sheep will not be allowed as all animals must be housed: sheep wear wool coats and thrive in winter when exposed to dry, calm winter air.

We are not asking for special treatment. We are simply asking for fair and reasonable treatment in the Nutrient Management Act and in its regulations. Thank you for this opportunity.

The Chair: Thank you, Mr Small. We have a little over two minutes for each party and we now go to the NDP.

Ms Churley: Thank you very much for your presentation. Were you consulted to date on the bill?

Mr Small: I guess our concern is that we're not a very large commodity compared to other people. We don't have the resources to hire professional consultants, so we tend to get lost in the shuffle. We're different and we'd like to be treated differently, and we understand that the regulations are still to come. We're just saying, can you talk to us when you're doing that job?

Ms Churley: It's good that you've had this opportunity to come forward today. I guess you raise a very important point, that there are differences in how certain animals should be treated under the regulations.

You mentioned in your deputation that research would show that sheep are different and should be treated differently. Can you point us to what we should look at to find out more about that?

Mr Small: Research hasn't been done. What we're really saying is that based on our experience, this is what

we believe to be the case. All we're saying is, don't trust us, do some research.

Ms Churley: That's what I mean, that the research hasn't been done by you. I understand you're small in comparison to some others. But there is research, I understand, that we could look at that would give us this information.

Mr Small: There are for other commodities but not for ours. We're saying, work with us and do the research.

Ms Churley: Oh, it seems like we need to do the research.

Mr Small: Yes.

Ms Churley: I see what you're saying. There isn't any. OK. Thank you very much.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): Thank you for your presentation. In the first paragraph you mention that the government should provide consistent rules across the province. Could you expand on that?

Mr Small: We're saying we much prefer the system of one set of rules across the province rather than having different rules township by township.

Mr Beaubien: So what you're saying is that the provincial guidelines should be the guiding light of the nutrient management bill?

Mr Small: That's my—

Mr Beaubien: Legislation and regulation. Thank you very much.

Mr Small: So people know where they stand.

Mr Galt: Thank you for your presentation. Is the provincial organization making a presentation to us as well?

Mr Small: Yes, they will I believe in Peterborough. This is an individual report based on our experiences in an urban region, essentially.

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Mr Galt: Something that you as a sheep producer may be aware of: you should be very concerned about the nutrient management plan that was laid out for your farm for sheep, very vigilant at the level of copper that might be applied to those soils. Sheep are supersensitive to copper, and I've seen a lot of sheep die from copper.

Mr Small: No pig manure, thank you. That's one of the problems with sheep.

Mr Galt: You need to monitor what might be in it. Some of the sludges that may come from some cities could also be high. So don't just look in one direction. The level should be monitored very closely.

Mr Small: We're well aware that we have to be a little vigilant as to what we put on your soils, particularly that's copper-rich, and hog manure is one of them.

Mr Galt: When you're asking to be involved with the consultation, are you looking for invitations being sent to the provincial organization, to your local organization in Wellington-Dufferin-Halton-Peel, or are you looking for Mr Small to get a special invitation?

Mr Small: I'm basically saying, talk to a recognized group of sheep producers, and the Ontario Sheep Marketing Agency would be the appropriate one.

Mr Peters: Thank you for the presentation, Lorne. In the fourth paragraph you make reference twice—and maybe some comments of Ms Churley's and maybe a bit of what Dr Galt said. But you use "appropriate science" and "proper scientific documentation." Who do you propose should undertake that? Who provides the proper scientific documentation? Is this something your organization should do? Is this something you're suggesting that the Ministry of Agriculture, Food and Rural Affairs do? Who is the qualified person to do this, to provide that scientific documentation?

Mr Small: From my perspective, I think there are research monies already allocated by the Ontario government, and some of those I think could be used to do this research. We're really talking about field studies to confirm—the studies are done for the other commodities. All we're saying is, fine-tune them, do some field studies and say, "Are we different or are we not?" We think we are, but don't just take our word on it. We think it's quite a different product to deal with. We don't see ourselves as woolly pigs or cute cattle. I think there's research money there now and I'm sure our provincial organization, with limited resources, would be prepared to participate.

Mr Peters: You go into your garden supply store and you buy all kinds of different manures available, and sheep manure seems to be quite popular. I don't know what you do specifically on your farm, but obviously somebody is buying that manure to resell. Is that something else that should be looked at? Garden centres are selling the stuff and all of a sudden I'm spreading nutrients in my garden. Is that something that, from your perspective, we should be concerned about?

Mr Small: I'm not concerned about them selling it, but we have 250 sheep ourselves and we need all the manure we can get to maintain fertility on the farm. I'm happy to use it there. We don't have a problem with too much fertility. It's usually not enough on many of our farms. It makes for a much more natural cycle to use it at home. It is popular because the nutrient composition is quite different than cattle and it takes a lot less time to dry it, to get it into the bag.

The Chair: Thank you, Mr Small. I hear what you're saying on fences. Our sheep spent more time on the neighbour's farm than on our farm.

CHICKEN FARMERS OF ONTARIO

The Chair: Our next delegation is the Chicken Farmers of Ontario. Please come forward. Good morning, sir. If you could have a chair and introduce yourself, and we have 15 minutes.

Mr John Maaskant: We will provide a written copy of our presentation to all of you later.

Good morning, Mr Chair and members of the committee. I want to thank you for this opportunity to speak today and to present the Chicken Farmers of Ontario's view on Bill 81, the Nutrient Management Act.

My name is John Maaskant. I am on the board of directors of Chicken Farmers of Ontario. I have been a chicken farmer my entire life. In fact, my father was one of the founding directors of the chicken marketing board back in 1965. I was raised on a chicken farm in the Clinton area, Huron county, and that is where I still farm today.

Chicken Farmers of Ontario represents 1,150 family-run chicken farms. Our members are proud of their contribution to Ontario agriculture and to the Ontario economy. Our farmers are proud of the leadership role that CFO has played, and continues to play, in areas of environmental stewardship, marketing and ethical farm practices.

Chicken is one of the few food commodities in Ontario agriculture that is growing in demand every year. Chicken production in Ontario has a farm-gate value of nearly \$430 million annually and accounts for one third of the chicken produced in Canada and 6% of the total farm cash receipts for Ontario.

Now to the issue at hand, the nutrient management legislation that is being studied.

CFO was a charter member and has been an active participant in the Ontario Farm Animal Council and the Ontario Farm Environmental Coalition, OFEC. I have represented CFO on the Ontario Farm Environmental Coalition for more than two years. We at Chicken Farmers of Ontario have put our time and resources into this issue because we believe it is important that farmers assist in advancing and developing modern farm practices that will not harm our environment. This is something we believe and it's something our customers demand, and as stewards of the land, we owe this to our children.

Chicken Farmers of Ontario is fully supportive of the work of the Ontario Farm Environmental Coalition as it has developed positions on nutrient management legislation that reflect the realities of modern-day farming. Our organization fully supports and endorses the position put forward by OFEC.

I also want to congratulate the government of Ontario for introducing a piece of legislation that is a reflection of the OFEC position. Mostly, I want to applaud the government, Minister Coburn and former Minister Hardeman for taking the time to get this legislation right the first time. Rushing legislation before it was ready and well thought out in response to media demands for action would have been foolhardy and in the end could have resulted in great harm to both the farming community and the environment.

We believe this legislation reflects the notion that a strong agricultural economy and a clean, safe environment are compatible goals.

It is important for the committee to understand that no one has a more direct interest in keeping water clean than farmers. We often get our drinking water directly from private wells on our own property. If farm runoff gets into that water, then it is our families who suffer. We don't condone polluting and we would expect that the

government would deal quickly and harshly with any farmer who does pollute. The legislation before us today is a good framework for the prevention of pollution in the first place and it allows for stiff penalties if it does occur.

Although we fully support OFEC's position, I would like to address a few specific issues raised by this legislation that are important to Chicken Farmers of Ontario. The first one is consultation regarding the regulations; second, we are concerned about consistency with respect to the regulations; and, third, we have some concerns about inspection and monitoring.

With respect to consultation, CFO recognizes the importance of regulations in terms of how this bill will be implemented. We strongly encourage the government to actively consult the agricultural community before cabinet passes these regulations. We want to make sure that the government understands CFO's position on certain issues that need to be addressed through regulations. One example: Chicken Farmers of Ontario has had a long-standing concern about using livestock units as a basis for measuring the size of farms. A more accurate unit of measurement is the animal manure nutrient unit, or AMNU, as it is called.

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It is very important that when it comes to determining the number of birds that make up an animal manure nutrient unit, the decision must be based on science and not other arbitrary methods. While this legislation does not specifically set out the number of chickens in one animal manure nutrient unit, it does allow the government to implement it through regulations that will come after the passage of the legislation.

Chicken Farmers of Ontario needs to be consulted on any regulation that attempts to set the number of chickens that comprise an animal manure nutrient unit. Getting that number right is critical. A number that is too low will not only cost farmers money, but it will also mean lost production, reduced competitiveness with other jurisdictions and higher costs. Conversely, a number that is too high could threaten the environment.

A second issue I want to talk about is the consistency of regulations. One of the problems that exists today is that municipal governments have different rules in place when it comes to nutrient management planning. This hodgepodge assortment of rules makes running farm businesses difficult. The provincial government has attempted to address the fact that municipal governments and farmers have been asking for clear and consistent rules for nutrient management planning.

Chicken Farmers of Ontario would hope that the rules that come out of this legislation become the final rules that municipalities abide by. These should not be considered minimum standards that municipalities can then build on. If that were allowed to happen, we would quickly find ourselves dealing with different rules in different municipalities. Chicken Farmers of Ontario and the agricultural community at large need to be assured that municipal governments won't be able to use other

tools—for example, the Planning Act—to circumvent the Nutrient Management Act.

Our third area deals with inspection and monitoring. While we recognize the government's need to have an inspection system in place that garners public confidence, we would like to point out that having government inspectors going in and out of our barns poses a significant biosecurity threat. As we have seen happen in Europe recently, disease can spread very quickly through livestock. Therefore, to maintain biosecurity and consumer confidence in our products, whoever physically does the inspecting must develop a very detailed biosecurity protocol that will prevent the spread of diseases through our barns and across the countryside.

This issue is very important to us since the Canadian chicken farmers have recently developed an on-farm food safety assurance program. It is an HACCP-based program aimed at providing assurance of the safety of our product. Any biosecurity protocol for inspectors would need to be compatible with our OFFSAP program in order to maintain its integrity.

This does raise the point, though, about who will set the standards and who enforces the rules. CFO strongly suggests that the Ontario Ministry of Agriculture, Food and Rural Affairs be the one to set the standards and monitor implementation. We believe that OMAFRA should also create a special unit of properly trained people who would be responsible for enforcing the rules.

The goal of nutrient management planning is to prevent spills and the contamination of groundwater. If a spill happens, then it is the Ministry of the Environment that will be involved in investigations, enforcement and punishing offenders. On the other hand, since Bill 81 is about planning and prevention, Chicken Farmers of Ontario believes that OMAFRA should be responsible for developing standards, monitoring compliance, and enforcement. Otherwise, we run the serious risk of someone who does not know or understand farming in the position of being the one to tell farmers how to run their farms, and that's of great concern to CFO.

There are other issues raised by this legislation that will prompt the agricultural community to seek direction from government. One of these issues is the need for capital funding to enable farmers to meet the new standards. So far, the government has been silent on this issue but it is one that it will need to address. We would suggest that an economic impact study of the new rules be undertaken so we can all properly assess what the financial needs are.

In closing, I would like to reiterate to the committee that Chicken Farmers of Ontario endorses the direction the government is taking on this important issue. We have outlined suggested improvements and we certainly look forward to continued dialogue with the government of Ontario.

In summary, we want to be consulted on the drafting of the regulations. We want assurances that the rules will be uniformly enforced regardless of what township one farms in. We also want to be certain that inspection and

monitoring will not pose a biosecurity threat to our farms. These are reasonable requests, and we believe the framework of legislation that is laid out before us offers considerable room for further discussion.

On behalf of Chicken Farmers of Ontario, my colleagues on the board and all of Ontario's 1,150 chicken farmers, thank you for the opportunity to make this presentation and good luck with your deliberations. I'll be happy to take any questions in the remaining time.

The Chair: In rotation, we have about a minute for each party. We now turn to the PCs.

Mr Galt: Thank you for your presentation. I appreciate your support and I think I can set your mind at ease as it relates to consultation. It has been very thorough up until this point and I don't see any change of direction. I can see extensive consultations as those regulations are being developed. At the same time I wanted to compliment you and your industry, both the egg farmers and the broader industry.

Biosecurity is nothing new to the industry; it's well over 30 years old. We've had sort of a locked-door policy, guarding the driveway, and my congratulations to you on leading in the livestock industry and biosecurity. It's certainly something that a lot of the other livestock commodities have been picking up more recently. So thank you for the support. When it comes to biosecurity, there's no question we need to have the inspectors, the enforcement officers, well versed in agricultural practices, if not coming from that sector of the economy. Again, thank you for your excellent presentation.

Mr Peters: John, thanks very much for the presentation. It's pretty obvious just from what we've heard this morning that there's a lot of common ground that different organizations are expressing. When the regs and standards are developed, and the biosecurity issues, I hope everybody is taking note of some of those areas of input, because I think that's going to be of utmost importance.

You raise a good point regarding the Planning Act. I think that's something we need to pursue because we don't want the Planning Act superseding something else.

Your industry is growing. Will this legislation help to encourage further growth and expansion in the industry and more investment out there or is it something that has the potential to hold back somebody from investing?

Mr Maaskant: I don't think it's a holdback. We have to deal with the reality of managing the impact on the environment, regardless. Hopefully what this does give, though, is uniform rules across the province so that everyone has the same opportunity to meet the standards and do their expansion in a responsible way, and to be assured that if they do meet the standards, they are able to do that. I guess it gives some stability.

The Chair: I will go to the NDP.

Ms Churley: Thank you for your presentation. I would agree with you; I think the economic impact study is a good idea. We've had a couple of presentations now around the issue that the ability to pay for the new regulations is a problem, and perhaps that's a good

suggestion. I suppose to some extent it would depend on what's in the regulations and what it is you have to do, and that could determine the extra costs.

My question would be, under the right-to-farm act and the regulations that are now in place and bylaws and whatever, what kind of costs are already incurred by your association?

Mr Maaskant: By farmers or by ourselves?

Ms Churley: By the rules that you have to follow now within your industry. I assume there is already a cost associated with reporting and whatever else you're required to do.

Mr Maaskant: Yes. It's a difficult question. We all have added costs, trying to be more responsible, first of all. Of course, some of the municipalities make it more difficult, so there's a lot of time involved.

Ms Churley: That's what I'm trying to get at in terms of—

Mr Maaskant: If we work with the Nutrient Management Act, the way it looks, and the nutrient management planning, that's already an added cost, but I think it's workable. It's if it gets unreasonably stringent—

Ms Churley: So the concern is that there are costs associated now in terms of protecting the environment but there could be more costs in terms of reporting and whatever else, and that needs to be looked at.

Mr Maaskant: Yes.

The Chair: Thank you very much, Mr Maaskant. We appreciate the presentation from CFO.

I now ask the committee to break and reconvene at 1:15 this afternoon.

The committee recessed from 1152 to 1314.

CITY OF TORONTO

The Chair: Welcome back to the afternoon session of the standing committee on justice and social policy's consideration of Bill 81. From our agenda we have a number of deputations scheduled. I would ask the city of Toronto to come forward. We have 15 minutes for your presentation. We would ask you to please identify yourselves for the purposes of Hansard.

Ms Sandra Bussin: I'm Sandra Bussin. I'm the city councillor from Beaches-East York. It is the location of the Ashbridges Bay sewage treatment plant that is in my ward. I've been very active in terms of finding solutions to dealing with our sewage waste, and I do have a short presentation.

I would like to start my comments on the proposed Nutrient Management Act, 2001, by providing some history of the city of Toronto's program related to beneficial reuse of biosolids captured at its largest waste water treatment plant, the Ashbridges Bay treatment plant.

In 1996, the municipality of Metropolitan Toronto, now the city of Toronto, started a five-year land application project. The project called for land application of approximately one third—that is 10,000 dry tonnes per year—of the biosolids at the Ashbridges Bay treatment plant. This program called for strict monitoring of the

quality of the biosolids for not only heavy metals but also pathogens. The level established for the metals was in accordance with the Ontario guidelines for application of biosolids to agricultural land. The level established for the pathogens was taken from US regulations, regulation 503, for class B, which is two million fecal coliform per gram of solids. This program has proceeded with minimal problems.

In 1998, the newly elected city council decided to accelerate the conversion of the Ashbridges Bay treatment plant to 100% beneficial use of biosolids. Up to this time we had been burning the sewage sludge. The city issued a request for proposals to qualified consulting engineering firms to assist them in the development of the plan for 100% beneficial reuse. All the firms invited to submit proposals had extensive experience in land application programs. After review of the proposals, the firms of R.V. Anderson Associates Ltd and Brown and Caldwell were selected to assist the city.

The process selected by the city and its consulting team called for the development of an expression of interest. This expression of interest was released, and resulted in responses from 16 different companies. These EOIs were short-listed down to seven. These seven received detailed requests for proposals, and the proposals were evaluated based on the qualifications of the company and the price.

In order that the final selections were appropriately chosen, the consulting team established two review committees, one a public review committee and the second an independent review committee. The duty of the independent review committee was to review the details of the proposals and peer review the selection made by the consulting and the city team. The independent review committee was made up of people from academia, federal and provincial regulators, experts in land application and two large US municipalities with experience in land application programs. The public review committee was to receive the recommendation of the consulting and city team and provide input into the RFPs.

The process resulted in the selection of two proposals, one for direct land application and the other for thermal drying. The thermal drying will result in the production of a pellet that will be used as a fertilizer, and we've just completed the building of that structure on the site at Ashbridges Bay.

The beneficial use of biosolids is a program to which the city devoted considerable resources and expense in order to ensure that the program is both viable and, more importantly, environmentally sound. The experience the city had gained with its direct land application program provided a sound base for the continuation of this method.

Considerable experience and research has been conducted on direct land application. The direct land application of biosolids has been conducted in the US for over 100 years and in Ontario for 40 years. The province of Ontario has developed guidelines which have governed the land application program for over 25 years. These

guidelines are consistent with the proposed nutrient management regulation. These guidelines are consistent with the US regulation 503, which is the most researched legislation that has been established by the US Environmental Protection Agency. The basis of this regulation is health and environmental risk.

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The city's program is well protected by its sewer use bylaw which has recently been updated and is perhaps the most stringent sewer use bylaw in Canada. A copy of the amended parameters are attached. The city conducts extensive analysis of the quality of the biosolids and, again, attached to my presentation are the 2000 records for metals and pathogens. You can see in both cases the quality of the biosolids is well below the limits.

We would further note that the contractor selected to do the land application for the city of Toronto provides the services of nutrient management plans to any of the farmers applying the Toronto biosolids.

In addition to the analysis conducted by the city, the city has also invested in additional anaerobic digesters to increase the retention time of the biosolids to 15 days. This will improve the quality of the biosolids removed from the Ashbridges Bay treatment plant.

The use of biosolids pellets for the purpose of fertilizer has been practised in the US for 75 years; and in the city of Milwaukee, Milorganite. This product and production of pellets is noted in the US regulation 503 under the category of class A biosolids, which means that it has unrestricted use. That product can be bought anywhere in any of our hardware stores.

The proposed nutrient management plan, as we have stated before, is in line with the land application program as practised in Ontario for the last 25 years. It should not present a great change to the program itself.

When reading the proposed act, it is unclear as to whether the proposed approval process will cause any delay in the land application program. As the land application program is controlled by climate and cropping needs, it is important that the approvals not be delayed. The act calls for the development of a biosolids strategy for the generators of nutrients applied to agricultural land. It is not clear at all as to what these plans are to include, who is to review the plans and how often they are to be updated. It is unknown whether there will be increased costs, and there is no indication as to who is to bear any costs related to this act.

There is a shortage of detail around the implementation of the act, which we understand will be developed over the next few months. We would hope that the input of all municipalities that apply biosolids to agricultural lands is sought by the authors of the act. We assume the act will be applied to all products applied to agricultural land for nutrient purposes. This should include commercial fertilizers as well as biosolids and manure. This would ensure that all products are dealt with on a level playing field.

The Nutrient Management Act, 2001, has laudable intent. However, due to the scarcity of details, we are

unable to determine the impact on the land application of biosolids.

That's my presentation. Thank you.

The Chair: We have less than a minute for each party. If there is a need for a brief comment, we'll start with the Liberals.

Mr James J. Bradley (St Catharines): You have a somewhat sophisticated sewer use bylaw compared to others. Under the municipal-industrial strategy for abatement, all of the municipalities were to have developed one. I'll throw a little two-parter in here: do you foresee a problem with other municipalities that do not have such a sophisticated sewer use bylaw and, second, do you see a need for more staff in the Ministry of the Environment to ensure that approvals are looked at very carefully and given in an expeditious period of time?

Ms Bussin: I can't really comment on other municipalities. I'm just very pleased that our municipality has moved ahead with a very stringent new bylaw for sewer.

The issue is certainly that we are concerned that we have a retention storage in Halton. Because the ministry is suggesting they have concerns about what is being applied to farmland, our product is also being held up. So we're in a situation where in Toronto we will be forced to send our sludge to some other processing, or stockpiling until that's resolved. Because of the timing—it's a seasonal application—it is of real concern to us in the city of Toronto in terms of what it takes to get the approvals to have the land application go ahead.

If that is a requirement for more Ministry of the Environment staff, then certainly we are supportive of that. Once we get this pelletizer functioning, we don't want to be having to burn it. The pellets are actually a good product; it can be used as energy. But it is a better product, in our opinion, to be using as land application.

For my community, where burning of waste has been the way of doing things, it hasn't been a solution that we think is the appropriate solution. We need to find this act and any other mechanisms there are and to move them ahead as quickly as possible.

The Chair: Ms Churley.

Ms Churley: Thank you for your presentation. We're going to be receiving a deputation a little later from the Canadian Environmental Network, the agriculture caucus chair whom I've heard from before about this issue. There are some who believe that the pathogens and chemicals that are in this kind of waste are a problem. I understand, from your perspective, the burning of the waste was a huge problem in our end of town in Toronto. But there is a concern about that. Spreading it on farmland is a problem as well. I'm just not quite sure how Toronto has dealt with those concerns.

Ms Bussin: Certainly, we're very conscious of that concern. I did attach to my presentation a report that was written to the works committee that deals with some of those concerns. But you will see there are charts attached that clearly indicate that what we are producing is well below provincial requirements.

We expect, with the pelletizer—this is based on the actual land application—that the quality of the product will be of an even higher level in that it's a pasteurization of the actual sludge at a very high heat. I did bring with me drawings of the actual new structure that we'll be using. It's a process of drying. This is not a new technology. It's been used in the US for at least 12 years.

I did meet with the Belgium company that is producing this particular pelletizer. It has been in operation in Europe for a number of years, and it is a very successful way of dealing with sewage sludge. In fact, they're beyond that at this point. In Belgium, for instance, where a great deal of pork is eaten and, as a result, there is a high level of waste from pigs, they're trying to develop a way of dealing with that particular waste, which is very hard to break down.

In terms of Ontario and Canada, we are far behind what's happening in the US and Europe in terms of how we're dealing with sewage and turning it into a usable and viable product.

The Chair: I'll go to Dr Galt, please.

Mr Galt: Thank you for your presentation. Two quick questions: one, should we have nutrient management plans for golf courses and front lawns? Two, have you considered in Toronto handling your sewage with what some would call the breaking technology of gasification? I'm not talking about incineration of waste energy; I'm talking about gasification whereby the bonds are broken down and hydrogen comes off as a gas to be burned as a fuel, and about 50% of it can then also be used to produce electricity. Have you considered that kind of technology for golf courses, and then gasification?

Ms Bussin: Firstly, in my presentation I talked about a product that you can buy now. It's called Milorganite and that you can apply to your garden. It's the same traditional pellets, it's available and there aren't nutrient management plans for that when application is made to your own personal lawn—I can buy that any time I want—or to golf courses, but I do think it is probably a good thing to consider, in terms of having those kinds of plans, in terms of how it's used.

Your other question was?

Mr Galt: Gasification.

1330

Ms Bussin: Yes. Actually, presently at Ashbridges Bay they do draw off the gas, and the gas is used as heat, in terms of heating the actual building. We will be looking at that in the future, because one of the problems we still have in our neighbourhood is that there are these setting tanks—they look like Olympic pools—and they are uncovered. As a result, we do get the gases that are emitting from these pools. Although they are not deemed to be a health risk to the community, they are a nuisance in terms of extreme smell. Because it is located near the lake, there are certain parts of the east end of Toronto that will get a very strong odour depending on which way the winds are blowing.

So certainly that is our next goal. It's a very expensive one. I think our staff have given me a quote of about \$25

million to look at enclosures over those pools and the use of those gases. Enwave—what was called the Toronto District Heating Corp—has expressed an interest in a way of drawing off those gases as well and using those as energy, but I think we're some way away from that becoming a reality.

The Chair: Thank you, Ms Bussin. We appreciate the presentation on behalf of the city of Toronto.

PAUL BROWN

The Chair: Our next delegation is the Canadian Environmental Network. Could I ask the deputant to come forward? If not present, we could move forward. I would ask if the Association of Municipalities of Ontario would be ready to make their presentation? Does the clerk have any information? I understand Paul Brown is here. Are you amenable to coming forward?

Mr Paul Brown: I might as well get it over with.

The Chair: As an individual, you have 10 minutes to make your presentation, and if you want to leave room for questions.

Mr Brown: OK. As you said, I'm here today representing no one but myself. I'm just a concerned person involved in agriculture, and I want to make sure this is consistent with my plans of staying in agriculture. I farm in partnership with my father, Harvey. We farm in York region and also in the newly formed city of Kawartha Lakes. We have a medium-sized beef operation. We're not a mega-farm, but it's enough to support two families.

We fully support the implementation of the Nutrient Management Act. It will do away with a lot of the hodgepodge of municipal bylaws, which are restricting farm expansion. One of our four municipalities in the new city of Kawartha Lakes has a bylaw on the books that is limiting the construction of new livestock facilities. So I'm here to make sure my business can remain viable in the future and expand, as that is important for us to remain competitive on the world market. It's very important from my point of view that there be no cap on the size of livestock operations in the future.

With regard to enforcement, there are many points I'll make today that are consistent with what's already in the Nutrient Management Act, and a few things that I may differ with. In the city of Kawartha Lakes, one of the positives that came out our recent amalgamation was the formation of an agriculture advisory council. This council is made up of farmers, ag business leaders and councillors. I feel this council should play a key role in the enforcement of the Nutrient Management Act. The agricultural advisory council would be a logical first point of contact for a citizen to make when they have a concern about a farmer's environmental conduct. The council could then direct a representative from the appropriate commodity organization or someone with expertise to go out and talk to that farmer and resolve the problem. This is quite similar to how the humane society is currently handling complaints with regard to farm animal welfare.

The ultimate responsibility, if this first step is not successful in resolving a problem, should lie with OMAFRA, not the Ministry of the Environment. The Ministry of the Environment has a culture of enforcement and punishment, while OMAFRA's history of extension would be far more conducive to finding solutions rather than just meting out punishment. OMAFRA is also the group most likely to have the expertise to understand specific farm situations. There will be many circumstances where superior management on individual farms will have a far greater impact on the environment than whether their facilities are up to 100% of the standards. I believe that OMAFRA is the organization that has the expertise to recognize these situations.

It must be noted that a distinction should be made between confinement-based production systems, such as poultry and swine, and grazing-based systems, such as beef and sheep, where the animals are on pasture for a large portion of the year and spread the manure themselves. With the diversity of farm production systems in the province, the number of livestock units on a farm is not necessarily an accurate indicator of the amount of nutrients that have to be stored and dispersed at a later date.

When the specific regulations of the Nutrient Management Act are developed, there must be financial assistance to help producers meet the heightened standards. The capital expenditures that society may expect us to make will provide no financial return to the farmer whatsoever. At a time when most farmers are fighting for survival, we cannot be expected to borrow more money to finance these projects. Permanently funding the environmental farm plan program with adequate amounts of money would be a good delivery vehicle for any funding related to the Nutrient Management Act. I feel that if society wants these new regulations for its peace of mind, then society as a whole should help pay for them.

The Chair: Thank you very much, Mr Brown. We have a little over a minute for each party. In rotation, we go to the NDP.

Ms Churley: Thank you very much for your presentation. Just very briefly, you mentioned that you think there should be no cap on the size of livestock operations. You yourself have a small farm, I take it.

Mr Brown: I would call ourselves a medium-sized operation. We have between 600 and 700 beef cattle.

Ms Churley: One of the things I've heard from a couple of farmers, and I don't know if this is widespread or not in their areas, is that because there are so many huge, particularly hog, farms coming on stream, they feel forced to get bigger because they can't compete otherwise. Do you find that's an issue for you?

Mr Brown: No, we're not competing in a local market. We're competing—

Ms Churley: Where is yours, by the way?

Mr Brown: We're in beef production. We're competing on the world market, so we're buying all our feed grains on the world price, we're selling our product on the world market. Half of our production is going to the

United States right now. To compete on the world market, we have to have a certain economy of scale. I'm not expecting to see western-Canada-sized operations in Ontario. It's just not feasible. But we can't be restricted in our size, because we don't know where the industry is going in the future.

Mr Dunlop: My question follows up exactly on what Ms Churley said on the capping of livestock operations. You're still on one particular farm, but what about the land required for disposing of the manure?

Mr Brown: We certainly think they'd have to meet whatever regulations are set. If it's a set amount of acres they need for that size of farm, that's fine; they would have to adhere to that. We're not arguing with that. But just to say you can only have so many animals and that's your limit I don't think is necessarily the proper solution.

Mr Dunlop: How many acres would you have to dispose of manure for the 600 or 700 cattle you have?

Mr Brown: We crop about 700 acres.

The Chair: I'll go the Liberals.

Mr Bradley: You mentioned that you do not think that a matter raised because of environmental concerns should be under the auspices of the Ministry of the Environment. I'm sure the mining industry would want the ministry of mines to be the lead industry and the steel industry would like the ministry of industry to be the lead industry, but the Ministry of the Environment's job is to protect the environment. Why wouldn't you want the Ministry of the Environment to be there to protect the environment? Don't you think there's a conflict of interest when it's a ministry which has as its client the agricultural industry?

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Mr Brown: I don't think there's much—I would hardly even consider ourselves clients of OMAFRA any more; we hardly even have contact with them any more, as far as that goes.

Mr Bradley: Point taken.

Mr Brown: It goes back to—OMAFRA has a history of teaching, helping producers modernize. We're in an industry where our average age is over 55 now. I think a lot of producers would benefit from probably a little gentle prodding as opposed to just having their arm cut off. It goes back to what I was saying, that the agricultural advisory council would be the first point of contact, which is similar to how the farm animal welfare cases are handled.

We know from personal experience. My father is the contact in York region and he goes out and makes the farm calls. When a respected member of the community goes out there and says, "You know, you're not up to snuff. I think you should clean up your act," I think it has a far greater impact than the Ministry of the Environment going in there, where a 65-year-old farmer is likely going to be less than receptive to his suggestions, to put it nicely. It's just maybe a way of helping them modernize.

I'm not sure whether I've clearly answered your question.

Mr Bradley: You've answered the question and you presented your view well.

The Chair: Fine, then. Thank you, Mr Brown. We appreciate your coming before the committee.

I'll just back up. I'm not sure that the Canadian Environmental Network is here. I'm not seeing them here.

RURAL ONTARIO MUNICIPAL ASSOCIATION

The Chair: The Association of Municipalities of Ontario, would you be ready to come forward now?

Ms Pat Vanini: Yes. We're waiting for the chair of ROMA, who had to drive in from Belleville. I understand he's soon to be here, so I can start if you wish and he'll join us.

The Chair: We appreciate that. Thank you. We have 15 minutes.

Ms Vanini: Great. My name is not Lloyd Churchill, who is chair of ROMA. My name is Pat Vanini. I'm director of policy and government relations for the association. As you probably all know, ROMA is a member of the association and represents, really, the rural part of our association. But there are a number of issues we'll address today that are of interest to all our members.

Unfortunately Ann Mulvale, our president, couldn't join us today. We had hoped we could move her schedule around but, unfortunately, she had to be elsewhere on association business. As soon as Lloyd comes, he'll be accompanied by Jeff Fisher, who is also one of our policy advisers. I apologize. I think it's the state of the congestion on the roads between here and Belleville.

As you know, municipal government has been very concerned about the issue of nutrient management for a number of years and we have been actively involved in the government's previous consultations on managing nutrients, including consultations at last year's ROMA conference. More recently we held a very well attended workshop that examined the legislation at the AMO annual conference on August 21. We feel that the government has listened carefully to stakeholder comments and municipal governments' concerns.

Although Bill 81 is enabling legislation, it is an important step in dealing with this environmental problem which has become such a concern to Ontarians. It also clearly shows how the government hopes to manage the issue. We are very pleased that the Minister of Agriculture, Food and Rural Affairs, the Honourable Brian Coburn, has taken the advice of municipalities and made the enforcement of the act and its regulations a provincial responsibility. Due to the fiscal and staffing constraints rural communities face, many municipal councils would have had difficulty funding and managing this new role. Developing provincial standards regarding enforcement will also ensure greater consistency throughout the province.

Notwithstanding our support for Bill 81, we would like to raise a few issues and concerns that we hope the standing committee will deal with during its delibera-

tions. These issues include municipal planning powers, nutrient management planning, timing of legislative and regulatory implementation, and municipal consultation and appeals. We will also comment on other parts of the legislation and the framework to support its implementation.

The first issue is municipal planning powers. The legislation draws into question the impact of provincial regulation of nutrient management on the planning powers of municipalities. Section 60 would make municipal nutrient management bylaws inoperable if the subject matter is already addressed in regulation. It is not yet clear which authority will decide whether a municipal bylaw, especially one based on the Planning Act, conflicts with a provincial regulation.

This legislative override may restrict the ability of councils to limit large-scale operations near sensitive areas, and by that we mean aquifers, environmentally sensitive lands, urban areas, beaches or tourism areas. It is unclear how this legislation would affect a municipality's authority, through its official plan or bylaws, to identify and protect significant geographic features such as environmental or tourist-sensitive areas or watersheds.

Also, the government's regulatory powers regarding geophysical studies, such as groundwater flow, may restrict zoning or planning control decisions made by councils based on hydrogeological studies. We have also heard that local controls, through section 210 of the Municipal Act, over stable barns and manure pits could be removed. It is unclear what types of provincial controls will be used to replace them, and I would assume we'll wait to see some of the regulations on that matter.

In terms of nutrient management planning, AMO and ROMA welcome the emphasis on the application of nutrients for environmentally beneficial use rather than simply as a disposal method. Consequently, nutrient management planning will result in a reduction in the available land base for land application of anaerobically stabilized biosolids and a narrowing of the land application window. However, it must be recognized that this policy will also result in increased costs, due to a greater reliance on disposal options such as landfill and incineration and other techniques.

It is essential that municipalities and the province work co-operatively to ensure the success of a new biosolids management framework in Ontario. Reasonable standards must be applied and enforced uniformly across the province, and net-producing municipalities must include relevant net-receiving municipalities in their planning processes.

The proposed phase-in of a ban on raw septage spreading will also require close consultation among the province, septage generators, septage haulers and municipalities. It is anticipated that the ban will result in the need to invest in the expansion of local waste water facilities as well as the development of dedicated facilities to treat septage. The ministry will need to work with municipal governments and stakeholders to assess if

there are viable alternatives, such as user-pay systems, for septage disposal and to ensure that these alternatives are practical and, more important, affordable. A comprehensive evaluation of the capacity of existing facilities and of the cost of absorbing the increase in septage to be treated must be completed before the province moves ahead with its ban on septage spreading. We need to know the size of the problem and what the solutions will entail.

The implementation of this ban must be considered very carefully. Rural communities do not want to deal with midnight septage dumpers. Although we are pleased that the government is looking at linking the requirements for the proposed nutrient management strategies with the certificate of approval process, these changes and any other regulations surrounding the disposal of biosolids will need to involve both urban and rural municipalities.

Given that it is the government's intention to regulate larger farming operations first, there may be a lag of up to a year in the regulation of smaller operations. Given that this gap in regulatory oversight of these smaller operations could pose a considerable risk to municipalities, AMO and ROMA recommend that municipal bylaw authority over these operations should remain in place until appropriate provincial regulations take effect rather than simply when the legislation is passed.

It is important that municipalities remain involved in the consultation process if and when the legislation is passed and regulations are formulated. Municipalities will need to discuss with provincial officials when new regulations will be phased in and how they may phase out the related municipal bylaws, such as municipal management bylaws. Both orders of government need to ensure that no important health and safety issues fall through the regulatory net.

Once the legislation and regulations are in place, we feel that municipalities should be included in consultation or review of nutrient management plans and strategies. At this time we do not know what information will be provided to municipalities under the proposed legislation, but we recommend that serious consideration be given to providing clear direction on this through regulation.

Also, greater clarity is needed regarding the opportunity and mechanism for municipal appeals of provincial approvals of nutrient management plans and strategies.

It is important that these legislative changes and any future regulations be immediately outlined to farmers so that they are clearly understood. This will assist in both compliance and enforcement of the legislation and regulations. We hope that the provincial government will fund education and assistance programs to assist the agricultural industry in this regard.

New enforcement responsibilities will require appropriate resourcing. We have heard concerns from several of our members that the Ministry of the Environment, with its current resources, cannot adequately oversee legislation for which it is already responsible—for example, complaints about spills that are not acted upon in a timely manner.

We understand that the government is planning to add some significant staff resources with agricultural training to do this work. We strongly endorse this step, as any future regulations will only be as good as their enforcement. In addition, the government may want to contemplate random audits of nutrient management plans to ensure that all farmers are developing and following them.

1350

It is important that the province keep up with new technologies, which may resolve many of the environmental problems associated with nutrient management at a lower cost to farmers. We hope the province will continue to fund research in these new methods, developed in Ontario and around the world, so they can be properly approved and utilized by the agricultural community. This will help ensure that our farming and food production industry is progressive and competitive.

We are pleased that Bill 81 recognizes the positive work done by local agricultural committees established by municipalities. Their role will clearly need to be further defined in future regulations. We trust that municipalities will have input into those regulations. We also hope that the government will be flexible regarding the structure of the committees and how they are appointed. Much of this work has been done in many rural communities, and the government should be cautious of any move to unilaterally restructure them.

Although enforcement is clearly a provincial responsibility, the bill contemplates the need for police assistance in some cases. So the question is, how frequently does the government contemplate the need for police services?

It is also proposed that the municipal property tax system and the Municipal Tax Sales Act be utilized to obtain funds owed to the provincial treasury under the bill. We would like the government's assurance that municipalities will be compensated for both of these services as they are supporting provincial efforts.

Interjection.

Ms Vanini: You're not surprised; I can tell. This will be easy, then.

A provision that sets out this principle of fee for service for other enforcement activities would be a positive signal that rural municipal budgets will not be susceptible to unpredictable cost pressures.

The bill contemplates that some delegated agencies in the future may deliver some provisions under the act or regulations. This may include nutrient management plan reviews, audits or educational programs. Some municipalities, if they so desire and are appropriately funded, probably through a fee-for-service basis, may be well placed to deliver some of these services as the province's delegated agency, but I say on a fee-for-service basis. We note, for example, that some communities have already moved forward with GIS databases that the provincial government could utilize for their registration system.

Again, thank you for allowing us to appear before you to present our comments. We are anxious to see this legislation move forward and we hope we can see some

action on some of the comments we've made. We are confident that the municipal governments will be involved in the discussions on the many regulations that will be needed to implement the legislation.

Now I can introduce Mr Lloyd Churchill, who is the chair of ROMA. You can answer all the questions.

The Chair: In rotation, I would turn first to the PCs. We have about one minute for a quick comment.

Mr Dunlop: It's good to see the people from AMO here. Just aside from the Nutrient Management Act, because you deal with municipalities of all sizes, do you keep a close inventory of the municipalities and the types of sewage treatment plants they have, and which plants can handle septage, and how many you have in the province etc? Is that something you work very closely with the municipalities on now?

Ms Vanini: If you're talking about a database, the Ministry of the Environment should have that database through its certificate approvals. We try not to duplicate other pieces of information.

Mr Dunlop: I realize that, but I'm thinking, what do you do with that with your municipalities?

Ms Vanini: Sorry, I'm not understanding the question. Let's try again.

Mr Dunlop: You have 400 or 500 municipalities now.

Ms Vanini: Four hundred and forty-seven.

Mr Dunlop: By the way, it's a great—

Ms Vanini: Thank you.

Mr Dunlop: But I'm curious. How often, and do any of your subcommittees deal with that as an issue on the side? I know the ministry has a database, but what do you do with that?

Ms Vanini: Most of our work, Mr Dunlop, is related around the policy, and obviously we build the policy based on local circumstances, knowledge and what happens at AMO. There are a number of places that this happens. In fact, tomorrow it starts again at the Walkerton inquiry public hearings. A lot of the questions that revolve around this issue will also be raised there tomorrow. So it happens at AMO in a number of places, but if you're asking me can I press a button and say, "This is what the existing capacity is in Ontario's sewage treatment plants," no, I can't do that.

Mr Dunlop: But certainly septs has become an issue.

Ms Vanini: Yes. I think you can appreciate that gathering that information is pretty time-consuming and requires quite a bit of field work. We're a very small organization of 15 staff folks. We try to keep up with about 16 ministries, so our database—we rely on other sources for that, including the province.

The Chair: I now wish to go to the Liberal Party.

Mr Bradley: My question revolves around your genuine concern about how the regulations look ultimately. Most people in the province, in fact most members of the Legislature, until they get to the Legislature, probably assume that virtually everything is contained in legislation. You have expressed concern that regulations, which are formulated behind closed doors

and do not appear finally under our government structure until later on—and the opposition and members of Parliament have no direct input on them—will have some surprises for you. Would you like to see, as much as possible, the details of this program contained within the legislation rather than within regulations, in order that everyone will know what's coming right away and everyone will have input on a public basis?

Mr Lloyd Churchill: Myself, personally, I wouldn't see any problem, Mr Bradley, of having it in the legislation. I agree with you, once and for all we'd know what direction we're going in. By regulation, it could probably serve the same purpose, but I question whether it would serve the people as well.

Ms Vanini: If I might just add a comment, it's sort of a double-edged sword, because once something is in legislation it's difficult sometimes—when you've got what I call the oops factor, when you've overlooked something or there are some unintended impacts—to get that changed. Obviously the speed of changing regulation is there. But I think even in a regulatory framework there are ways to have and develop some openness and transparency on the regulations. I think one of our clear recommendations today is how you can do that.

The Chair: I'll go to Ms Churley, please.

Ms Churley: Thank you for your presentation. You raised some very interesting points, some of which I was trying to make this morning. I have here a very tattered document that was leaked to me from the Ministry of the Environment, a cabinet submission, where it says that less than 10% of sources of pollution in the province are being inspected in any one year. This document was trying to find ways to deal with that problem. That is the reality we face, yet we're here bringing on more laws and regulations, which we all agree are needed. But the resource issue you raise is a very serious one that we have to consider as a committee.

The other thing you raised, which I asked questions about this morning, is the authority. Who will decide whether a municipal bylaw conflicts with a provincial regulation around sensitive environmental areas? It seems to me from what I've heard so far that the farm community in general supports that there be a consistent law across the land that everybody has to adhere to. I think that's going to be a matter of some conflict. I support your position on this and I'm concerned about it. It might be something you would want to expand on more at a later date.

I know the OMB, under the right-to-farm act, squashed the government's appeal. You will recall this. There was a decision made that a municipality make a bylaw I think to stop what's known as a factory pig farm. The government went to the OMB and lost that. I suppose that is going to continue to be an issue. I don't know if there is any time to answer that question. Do you think it can be worked out in such a way that everybody can be happy here?

1400

Ms Vanini: I'd like to think so. I guess my glasses might be a little rosier than others. The real challenge is

that there are nutrient management issues in relationship to the land, but there are also these other land use planning interests and needs of communities. So it's a matter of integration and balance, and that comes from good processes and openness and accessibility. I think that even as we're looking at the provincial policy statements under the Planning Act, there's a whole pile of things that aren't separate but come together, and we need to see that fit. I think that would be one of the roles we'd like to bring in terms of looking at the regulations and how enforcement is going to be done, because it all has to come together. There has to be a balance and integration, but there also need to be some clear statements on objectives and how to get there. I think the challenge here, without seeing the regulations, is not knowing whether or not we can make that integration and balance. That's certainly what we'd like to bring to that discussion on the next phase of this bill.

The Chair: On behalf of the committee, I wish to thank AMO for coming forward.

CANADIAN ENVIRONMENTAL NETWORK

The Chair: We now wish to ask the Canadian Environmental Network to approach the witness table. I'll ask you to identify yourself for the purpose of Hansard. Please proceed.

Ms Maureen Reilly: My name is Maureen Reilly and I'm here on behalf of the Canadian Environmental Network. I'm the agriculture caucus chairman.

Thank you very much for the opportunity to comment on the proposed Bill 81. As was just pointed out, it is quite difficult to comment on it because it is indeed very general. The "thou shalt nots," the specifics of the scope of the bill and its restrictions have not yet been formulated. It makes it difficult to comment in a meaningful way, but it nonetheless provides an opportunity for input toward the standards and procedures that would be encompassed within the scope of this piece of legislation.

I have to note first that it's actually not the nutrients that we seek to manage; it's contaminants that the province is seeking to manage. Nutrient applies to the agricultural uptake of the plant life of these materials. It's really not that issue to which the province addresses itself, but it's the overuse, runoff and contaminant addition of those nutrients into groundwater, surface water, soil, air and water that we're concerned about. It's not actually the nutrient aspect that is our concern; it is in fact groundwater, human health and the environment that we seek to protect. We need a contaminant containment program which would include pesticides and other toxins, not simply phosphorus, nitrogen and the other plant nutrients.

I was surprised to see that the scope of the bill included biosolids and materials that are currently managed under a certificate of approval as waste. I was in part surprised because there has been no consultation with the biosolids utilization committee on this matter. I would have thought that this government would consult with the

senators of sludge, as I like to call them, in terms of providing background, and their 25 years of experience in the land application of these kinds of materials, in advance of the creation of a bill. It gives me some idea of the very early stages in consultation that this bill represents.

I guess I would really like to see a very formal series of consultations with agricultural and environmental organizations in preparation of the actual standards, enforcement mechanisms and the regulatory aspects of this proposed bill. I understand it's just enabling legislation and somewhat vague as to what would be managed, how and by whom.

It's important to note that in encouraging farmers to be drawn into a regulatory framework for manure management, it's important for the province to address exactly the same contaminant issues in those materials and nutrients that it's currently applying, providing the management framework. In other words, sewage sludge, septage and paper sludge are all currently applied under waste management certificates. They are inadequately managed under certificates of approval in the province currently. Unfortunately, the land application of sewage sludge, for instance, would never meet a nutrient management scrutiny. The phosphorus content in city of Toronto sewage sludge means that you could only apply it at about one tonne per hectare, and it's currently applied at eight tonnes per hectare, so it exceeds 800% the nutrient management guidelines that you would enforce upon farmers. I think you're going to have resistance to farm uptake of this legislation if, on the neighbouring field, the Ministry of the Environment is providing permits and promoting the use of sewage sludge as a soil conditioner, in violation of the very principles you're asking farmers to adopt.

On the other hand, it's important that all sources of contaminant on farmland be addressed in the legislation, and that will be a step forward. But I think you need know that it's going to have serious implications around the economic viability of our current land application and biosolid strategy, because you're going to need three to eight times more acreage to land-apply the current mass of sewage sludge that's going on the land, and you're hard pressed to find the acreage or the storage space for that volume of sewage right now. Since it is the intention of the province to terminate the use of septage on agricultural land, that will only increase the amount of biosolid material that you're going to have to learn to dispose of as well. So the problem isn't going away.

In terms of that aspect of the nutrient, I think it's the opportune time to look at whether sewage sludge, paper sludge and those other kinds of industrial wastes, should be land-applied agriculturally at all.

The Canadian Infectious Disease Society has called for an immediate moratorium on the land application of sewage sludge and septage because of the risk of infectious disease. This has not been addressed. The issues have not been adequately studied. The American EPA acknowledges this, as does OMAFRA, the Ministry of

the Environment and the Ministry of Health. I think that, given that it's not going to be an economically viable procedure and the other contaminants are excessive, it makes sense to rescind the land application of sewage sludge right now and start to bring the manure management into line.

One of the aspects that needs to be looked at is the promotion of certain kinds of nutrient management practices that are unlike those that have historically been used. Liquid manure: the land application of liquid manure and liquid manure holding tanks create a slurry of material that is a far greater risk to the environment and to groundwater contamination than were the semi-composted barn scrapings of days of yore. Historically, bedding material like straw or sawdust would be mixed with animal manure and set aside for a number of months prior to land application, and in the process they would become more stabilized. They went on as a solid, and the nitrogen and the nutrients were not as volatile as they are in the liquid holding tanks. I know there are some initiatives looking at composting of manures, and I think it's very important to further that work, because the risks to groundwater of liquid manures and of slurries that are being currently applied are largely unaddressed.

Land use planning: my colleagues at the municipal association suggested that land use planning really is needed to look at how we manage resources and farm versus urban land use priorities. The suggestions that are coming forward are that this be done on a watershed-wide basis, and that's really important. A whole watershed provides a picture, a mapping of the water resources, both surface waters and groundwater, that would allow a community to not situate intensive livestock operations in environmentally sensitive lands, for instance, or other kinds of industrial uses that could contaminate headwaters or groundwater.

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It's very difficult to have retroactive actions once you realize you have an industry that's ill situated in terms of environmental impact; you know, when the water intake valve is downstream from the sewage outflow. We need to avoid those situations by having municipalities, conservation authorities and provincial government officials involved in land use planning exercises that have fallen away in recent decades and that dearly need to be enabled.

In terms of the legislation itself, enforcement should be done by the Ministry of the Environment. It's impossible to suggest that municipal government levels have the capability or the arm's-length relationship from their communities to provide the enforcement of nutrient management plans.

One of the strongest ways to enforce is to provide transparency of the information that would be provided in the farm-to-farm nutrient management plan; that is to say, post it on the Internet using the environmental registry. That would allow people to say, "Ah, you've missed that uncapped well," or "There's a stream that goes through that property that is intermittent that you've

missed.” It would allow for fuller public participation, and it would also provide the enforcement mechanism, because people would know what separation distances need to be respected and whether they are being respected. Those documents could also be left available at the municipal offices for public review.

Repeat offenders should certainly be the subject of a transparent complaint file so that there is some leverage within the communities. These are rural neighbours. There needs to be harmony in a rural community, but people need to see that the laws are being equally applied and abided by. We do not have the ministry management and enforcement officials to manage the land application of industrial waste that we have going on now, never mind every farmer in the province. So that kind of transparency of oversight can be provided locally with the available mechanisms of EBR postings.

In conclusion—and I would really very much welcome questions—I urge the committee to do public consultation with NGOs around what regulations you actually put in place. I would have liked to see something more substantive to comment on at this point. To leave everything to the regulations at the end deprives us of a meaningful discussion of boundaries and what phase-in periods are actually going to be proposed, and we would need another round of consultation after those had been developed.

It’s time to reassess those materials that are currently managed under certificate of approval. Under no circumstances should the use of certificates of approval to manage those wastes of sewage and septage be eliminated. Those sources really need to stay under the tightest possible ministry control as registered wastes, because their toxicity goes far beyond their nutrient content.

It’s timely to eliminate the land application of sewage sludge as well as septage and to do a wide consultation with rural, agricultural and environmental organizations around separation distances and what practices can be more protective of the rural environment.

The Chair: Thank you, Ms Reilly. We do have a brief bit of time for a question from each party—about a minute. We’ll begin with the Liberal Party.

Mr Bradley: There are many very good points made in your presentation. The committee will wrestle with a very difficult problem, and perhaps you could be helpful in this regard as well: if it isn’t applied on land, what do we do with sewage sludge?

Ms Reilly: Funny you should ask that. I prepared a memo on that topic this morning already. There are a number of strategies that need to be used. Until very recently, sewage sludge disposal was relatively equally divided between incineration, landfilling and land application. This is no longer the case. Landfill has been diverted to farm application, and incineration is being phased out because of air quality concerns and ancient incinerators. We have a flood of trucks trucking these wastes out to the hinterland at this point, and rural residents are in shock, frankly. The volume of sewage right now on rural land is untenable and there’s no

storage for it and no backup for when we have rainy seasons like we had last year. So we can’t tolerate the current practice for a whole variety of reasons. What we can do is to go back to a diversity of end uses immediately. Sewage sludge pelletization doesn’t handle the question, but it allows for easier storage and facilitates faster incineration. But we would then need to have incinerators that are state-of-the-art and that have adequate emissions controls. Incineration is not a politically favourable kind of proposal at this point in time, with the smog alerts and the other issues that challenge that technology.

I would suggest that we also go to some composting and use the material that’s generated with sewage sludge to rehabilitate landfills. The Keele Valley landfill is closing. We can use it in the final rehabilitation of the landfill. And we can divert it back to landfill proper. But the really important part is to curb the production in the long term of sewage sludge. What we need to do is to re-examine whether it makes sense to use drinking water quality to flush waste. It seems a rather absurd prospect, actually, when you look at it. When you mix human sewage—human manure, if you will—with industrial waste, you can’t recapture the industrial waste and recycle it and you can’t use the human manure safely agriculturally, and the water is contaminated in the process. As we saw on CTV news last night, it’s very difficult to clean it once you’ve put antibiotics and a whole variety of hormones and endocrines into it.

The whole notion of sewerage up a community really doesn’t make sense. Inasmuch as it made sense in the London of the era of plague and cholera, what public health sense does it make to gather up the sewage from one community and then truck it out and spread it on another? It’s public health in reverse, quite frankly.

So what we need to do is to certify the use of composting toilets and dry toilets so that we’re not using drinking water to flush waste and mobilize the pathogens at the same time. There should be a green ring around urban areas. The King City debate is a prime example of this. Do they want to be on the big pipe? Well, no, they actually don’t. Community residents like the rural character of having drinking water wells and protecting groundwater sources. This is rather a long answer. But we need a long-term plan with priority, primary pollution. The city of Toronto sewer use bylaw is an excellent model for the province to promulgate across the province so that industries cannot use sewers for the disposal of toxics.

We can clean up the sludge by eliminating the use of priority pollutants in industry and limiting their discharge into the sewer system. In the meantime, reduce the extended use of sewers in new communities by protecting groundwater sources so people can drink their well water. Then we could have a green ring around urban areas where industry and other land uses won’t permit the contamination of groundwater because people are still drinking it.

Ms Churley: Thank you very much for your presentation, Ms Reilly. I’ve certainly been getting e-mails

from you over the years and I thank you for keeping me up to date on your thoughts on this whole issue.

You've answered somewhat—I know it's more involved than that—the whole vexing question around sewage sludge. I represent an area in Toronto which burns it in an old incinerator which, as you've said, is also a problem. You're quite right that it's going to take a very thoughtful and considered time to come to a conclusion and get this worked out. None of what we're doing now makes any sense. I appreciate your brief comments on that today.

I think I take, in the short time that we have here today, from your comments that the most important thing you're asking of the committee today is to make sure that you're included, as well as municipalities and other environmental groups, in consultations around the regulations. I think that's the most important thing you've probably said to us today. Would that be correct?

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Ms Reilly: It's difficult to choose among the things, but I think ongoing consultation once the regs and standards are developed—I have to note that under the certificates of approval, most of them violate the regulations in 347. Reg 347 stipulates a 300-foot separation distance between drinking water wells and sewage sludge application. Every single certificate of approval stipulates between 25 and 15 metres. It violates the provincial requirements every trip out.

We're a year past Walkerton and it seems we've learned nothing. The legislation is being violated in each site-specific certificate of approval for Ottawa sewage sludge and city of Toronto sewage sludge, and the distance from surface water is equally truncated. There are just these tiny margins.

That's why we need transparency. It's one thing to have a grandiose plan and a philosophy to protect the environment, but then to give that away in every single site-specific certificate of approval or nutrient management plan would certainly be hypocritical and counter-productive, and I wouldn't want to see that happen.

The Chair: Mr Beaubien, please.

Mr Beaubien: Thank you very much for your presentation. I don't want to dwell on the subject matter for too long because we're probably out of time. But when you talk about standards and regulations, who should oversee the standards and regulations and who should enforce them? Could you be specific, please, because you mention that nothing is being enforced and everything is being contravened. Who should enforce it and who should oversee it?

Ms Reilly: We do have a somewhat knee-capped Ministry of the Environment in terms of their enforcement function. We now have three levels of enforcement within the MOE: the local area office, investigations and enforcement and the SWAT team. So instead of having enough people do their job once, we've got three sets of people vying to do that job. It's within the Ministry of the Environment mandate. They are the cops. They have the sort of regulatory authority to oversee these.

My suggestion is therefore that the Ministry of the Environment abatement staff be enhanced adequately to provide supervision but that local transparency—in other words, that local availability to review the nutrient management plans and the requirements on each farmer to manage nutrients adequately be publicly available so that communities can, by and large, be assured that the standards and specifics of the legislation and the requirement of that particular farm are being obeyed. There are so many farms, that community involvement could be facilitated without any expense by simply allowing for that transparency.

The Chair: Thank you very much, Ms Reilly. We appreciate your coming forward on behalf of the Canadian Environmental Network.

SIERRA CLUB, EASTERN CANADA CHAPTER

The Chair: Referring to our agenda, I would now ask, is the Sierra Club, Eastern Canada Chapter, available to come forward? Good afternoon, sir. We would ask you to take a chair, and if you could identify yourself for the purposes of Hansard.

Mr Don Mills: I'm Don Mills. I'm the chair of the intensive livestock operations campaign for the Eastern Canada Chapter, ECAN, of the Sierra Club. I'd like to thank you for the opportunity to come today and speak to this bill.

ECAN has been and continues to be very supportive of agriculture in Ontario. We recognize the importance of Ontario's farming community. ECAN believes that the growing of food in Ontario can be done in a manner that's respectful of the environment and of rural communities.

For several years the paradigm has been emerging that the Ontario livestock sector espouses consolidation of livestock facilities into large, concentrated sites that have been called intensive livestock operations, or ILOs. In other jurisdictions throughout the world, ILOs have created a great deal of environmental degradation and societal strife. In order for Ontario to avoid the same fates as other areas such as the Netherlands and North Carolina, it's necessary for the governments here to be proactive and take a lead in making decisions to direct growth effectively and regulate new development. I'd like to make some comments specific to the act and then some generalities. Then I'd be happy to take some questions.

In looking through the proposed legislation, all reference to the role the province intends to take in the administration of this act omits naming a specific ministry or minister. An example is subsection 2(1), where it says, "Any minister responsible for the administration of a provision of this act...." We have consistently held the position that the Ministry of the Environment should be in charge of enforcement of the regulations that will be coming down. We think it's inappropriate that OMAFRA would be responsible for this, largely because of the

perceived conflict that OMAFRA would have and, from a farming community perspective, that it is putting OMAFRA in a conflict that builds distrust of the role they have in terms of offering extension services. We think it's more appropriate that the Ministry of the Environment would be in charge.

Moving along to section 5, where most of the regulations will be found within the act, 5(2)(a)(i) says, "specifying standards for the size, capacity and location of buildings." In other words, there will be the ability for the province to draft regulations around siting and sizing livestock operations or barns, and that's appropriate. What concerns us is, when you take that with the later segments of the act about municipal bylaws, that it will in effect mean that any municipal bylaws out there now that deal with siting and scale of intensive livestock operations will be superseded.

If we look at OMAFRA's position paper from 1998—I haven't seen anything more recent in terms of these issues—the position is that size doesn't matter, and yet many municipalities obviously that feel size does matter, because they've passed bylaws restricting single-site densities—not total ownership of livestock but single-site densities. When we look at this, we're concerned that a regulation will be passed that in effect says that size doesn't matter, and if we end up before the Normal Farm Practices Protection Board with the municipal bylaws, the bylaws will be overturned.

There's a subsection under section 5 that refers to geophysical studies, and "geophysical study" is not defined in the definition section of the act. It does make mention of direction of water flow. We would argue that whatever geophysical studies are, they're going to have to include a proper assessment of sites for intensive livestock operations. These sorts of assessments would include depth of water table; the type of surficial deposit, the type of deposit separating the surface from the groundwater regime; the type of aquifer material; the direction of groundwater flow, of course; the depth of the bedrock; the type of bedrock; soil chemistry—a proper environmental assessment to determine groundwater vulnerability from any point source leakage or land application. We will be submitting later a brief we had prepared for the Walkerton inquiry that deals specifically with this issue, and that will be part of our submission to your committee.

A large part of our concern is around the provincial role. We're concerned that under section 55 the ministry—again "the ministry," whichever ministry this may end up being—the government, has given itself the ability to download or privatize certain responsibilities under this new legislation, and particularly at the review of nutrient management plans or the issuing, amending, suspending or revoking of certificates and licences. This is a concern for us in terms of responsibility. If something does go wrong, who exactly is responsible when this has been offloaded to the private sector? We feel that this is more appropriately a public service and should be maintained by the government of the day.

I mentioned earlier our concerns around municipal bylaws, and it's expressed in the act under section 60 that this legislation will supersede any municipal bylaw. We perceive this to be a real source of conflict as soon as this act becomes law. There are many bylaws out there that seek to deal with intensive livestock issues in terms of getting a handle on environmental impacts and also in terms of planning: Where should they be within a community? How do we fit them in with other aspects, other industries within the community? This act, as written, will really leave us in a position of continued acrimony within the rural community.

I don't think it serves us well in terms of the environment either. Some of the bylaws that have been written have a good basis in terms of trying to protect groundwater regimes. They reflect the geographical, the societal peculiarities of the many jurisdictions across Ontario. While we've supported all along a provincial law that would give us some sort of minimal protection across the province—when I say minimal, I don't mean to say that it should be minor, but something that's out there for communities that don't have protection—I think it is necessary to allow specific municipalities to try and plan and develop and reflect the strengths they have in their communities. This law, as written, would restrict that.

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One other thing, along the same issue as the amendment to the normal farm protection legislation: it confuses me somewhat in that if something goes before the Normal Farm Practices Protection Board now, they will have to consult these regulations. If the practice in question complies with these regulations, then they shall deem it normal. So we're left wondering why we need a Normal Farm Practices Protection Board if in any issue dealing with livestock or agriculture they merely have to look to this act. We've had some problems with that legislation in the past and we feel this is worsening the right-to-farm legislation, and if there is a need for it I think this is just going to make the public turn against it all that much more. So the legitimate protection we may have needed as farmers under the right-to-farm legislation is going to be under attack because of this further loss of power given out to the Normal Farm Practices Protection Board.

About the act as a whole, it relies obviously almost exclusively on nutrient management planning, and we're in support of nutrient management planning. It's a good tool for balancing crop needs to manure applications, but it doesn't deal with pathogens and it doesn't really deal with groundwater protection in the sense that it doesn't address what's underneath the top six inches of soil. As such, nutrient management planning alone is not going to protect groundwater in Ontario.

We need proper assessments for any intensive livestock facilities that are put in, and those assessments should be fairly extensive. We need to also do a lot more in terms of finding out what's out there. We need to get back into mapping aquifers, determining what our groundwater regimes really are. I think the province has

been unable to continue that strategy that it had been on stream with for a few years. We really need to get back on board there, and that means co-operation with the conservation authorities and probably some money put in.

We're concerned with how we're going to pay for this legislation. It's going to have to have resources thrown at it, and it doesn't matter whether it's OMAFRA or MOE; it's going to take money and it's going to take bodies to make this thing work. We're very concerned that the province dedicate significant funding to this and makes sure that whatever strategy we're going to go with has the people to make it effective.

A personal note I'd like to close on that may seem niggling to some of you is the definition of "farmer" in this legislation. What I think is important about it is that this is how society shifts, and language is very important. A "farmer" is defined as "the owner or operator of an agricultural operation." In my community that can mean the individual who is the owner of 30,000 sows spread across Ontario and Manitoba, and this is an operation that's probably worth \$50 million or \$60 million. Now that individual will be legally defined as a farmer. I hope it wasn't the intent of the legislators to define farmers as the controllers of \$50-million operations who never actually do anything that's directly connected to agriculture. I think this is the sort of thing that leads us down the path away from sustainable agriculture and toward a separation of community from society from the land.

I'd be happy to take any questions you have.

The Chair: We have very little time, perhaps one question. It is the Liberals' rotation.

Mr Bradley: I have a question which, again, I'll put to you because I heard you say at the last—I think I know where you're coming from in this—that it didn't matter whether it was the Ministry of Agriculture or the Ministry of the Environment; they would have to have a lot of staff. My presumption from your earlier comments is that your preference with this legislation would be that the lead ministry be the Ministry of the Environment and that OMAFRA would be consulted, obviously, and have an involvement, but that the Ministry of the Environment would be the lead ministry. Would I be right in assuming that's your position?

Mr Mills: That's exactly right. I think that's the appropriate way to go. And I think OMAFRA has a continuing important role to play and should be freed from the regulatory regime so that they can be an effective extension to the agricultural community and not be placed in a conflict.

The Chair: I think we should move on unless you—

Ms Churley: Thank you. I come from the municipal spectrum myself. I was a councillor before getting elected provincially. I believe in minimum standards being set by provincial government, but as a former municipal politician, I get really nervous. A municipality, after all, knows its own district better than we sitting on high up here. I get very concerned and very nervous when you have overreaching legislation that takes away

the ability of politicians, who know their jurisdictions best and can consult with all aspects of the community, to set rules and bylaws. And that's what appears to be happening under this legislation.

Now, the farmers and agriculture community that we've heard from to date—and I remember as well when we went through the right-to-farm act, which I sat on—really support, so far, the government direction in this. They want even standards; they want a level playing field. I'm just wondering if you have any thoughts on how this can be done—not everybody can be happy, but it's going to be an area of big conflict, I think—so that people can generally live with it on both sides.

Mr Mills: I think it may be difficult. It's difficult. I can't speak for all farmers, but I can speak for a number of farmers in my community and some farm organizations I belong to that support municipal involvement and think that we should have minimum standards with a municipal role.

It's important to allow communities to develop, and I think that there is not just one style of agriculture. There will be only one style of agriculture if you impose cookie-cutter barns; the same barn can be slapped down anywhere in Ontario regardless of local circumstance. If a community restricts a certain type of agriculture, I don't think that spells the end of agriculture in that community. I think there'll still be lands there that are productive. There will be agriculture there. It is difficult. I make no excuses; it will be difficult. But I really believe that you have to allow municipalities to develop and to be diverse. And I think that's good for agriculture. I think a truly sustainable, strong food system is one that's very diverse. You're not going to have diversity unless you let communities develop diversity.

The Chair: I now go to Dr Galt.

Mr Galt: Thank you for your presentation. I just want to ask you how you would respond to Mr Brown with his presentation earlier. I know you weren't here, but I'll give the information.

We all agree that if there's a spill or pollution, it's the role of the Ministry of the Environment to go out and do their thing in a very forceful manner, the sooner the better, no argument. The key point that he was making, one of his key messages: enforcement must be the responsibility of the local agriculture advisory councils and OMAFRA; the MOE should not be involved. In my words, paraphrasing what he said was, basically he says a bill about prevention of pollution should have Ministry of the Environment backup; it's a ministry that's there for education and training, sort of lead-with-the-carrot-rather-than-the-stick approach. How would you respond to him? Because you are very much on the other side. If he was still here, what would you say to him, confronted with that information and that side of the argument?

Mr Mills: I think local advisory committees are attractive, and I also think they're difficult to be workable. When you talk about peer review committees—and I'll go back to the example of the extremely large operation in my community, if I was on that advisory

committee, I would not be their peer. They have no peers in our community. And so it's very difficult to set up a peer review committee when one entity dominates the local landscape. I think OMAFRA could be more effective by taking them out of the role of being involved with the administration of the regulation under this act. I think there's a certain scale issue here where agriculture has had problems for a long time, I'm sure. If we look at groundwater contamination records from the late 1980s or early 1990s, obviously we have had some problems and agriculture is a part of that, along with a lot of other things.

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I think we have to separate out what's coming down the pike from what we have experienced in the past. A lot of our concerns revolve around what we are going to see in terms of large barns. I was told four years ago by an OMAFRA representative, "Don't worry about it, because MDS, minimum distance requirements, will prohibit large barns." At that time we were talking 1,000 to 2,000 hogs. Since then, 4,000 hogs have become commonplace and here in Kinloss they're arguing about 6,000 hogs. In New Brunswick, they've got 10,000 hogs in a barn.

I think when we talk about this sort of legislation, we have to be looking down the road. What are we going to be faced with? The pressure is coming from the Americans where 100,000 isn't unheard of; it's quite common. You have millions of hogs in one operation in Utah, Circle 4. I don't think we'll see that in Ontario and I don't mean to use that as a scare tactic, but certainly we're looking at a lot of pressure in terms of growth. When we go with the carrot approach and we talk about advisory committees, how is that going to play out? This is legislation we're looking at for a long time. How is that going to play out in five or 10 years? It's happening very quickly, when we look at larger operations and more consolidations. So I think those are the sorts of issues we need to look at.

The Chair: On behalf of the committee, I wish to thank the Sierra Club for coming forward.

ONTARIO FEDERATION OF AGRICULTURE

The Chair: Our next item on the agenda is the Ontario Federation of Agriculture. Have a chair, gentlemen, and for the purposes of Hansard, we would ask you to identify yourselves. Please proceed. We have 15 minutes.

Mr Jack Wilkinson: Thank you very much. I'm Jack Wilkinson, president of Ontario Federation of Agriculture.

Mr Dave Armitage: I'm Dave Armitage, staff of Ontario Federation of Agriculture.

Mr Wilkinson: First of all, thank you for having us at the committee. This is a very important piece of legislation. In our view, it is very significant as to what unfolds in the agriculture community over the next number of years, and how we deal with the question of nutrients

not only from the farm side but from urban, industrial biosolids, raw sewage, and the whole question of how we deal with water quality in the province.

I would like to make a couple of comments before we get into the details. First of all, the Ontario Federation of Agriculture and the farm community in this province have had a very long history of being proactive in regard to dealing with the environmental questions and our stewardship with that environment: best management practices that were developed really by commodities and organizations like ourselves, going back 20 years; environmental farm plans that were initiatives from the farm community back to 1991; pesticide grower courses; intensive pest management programs; the reduction of 50% of pesticide use etc. There is a long list. So first of all, we welcome this legislation, if done appropriately.

We've been lobbying for nutrient management legislation for a number of years. We're pleased that it's in front of us now, and so I think we need to approach it from that context. The farm community wants nutrient management legislation, wants it done right to deal with the concerns of the population at large, and give us a framework in which we can do our business with some degree of knowing where the future lies.

With that, since we have a limited amount of time and we want to leave some time for questions, I would like to flip through our brief to the bold points which really are our recommendations.

Number two in this comment is that our view is there is reason for a provincial standard. That really came to us over quite some time period of concern with certain municipalities taking a different approach to the number of days of storage they thought was appropriate to a size per farm population, all the way to prohibitive construction to varying dramatically from 50 animal units to 200 to actually no rules. Our view was that it's appropriate to put in a province-wide standard.

That does not mean, with legislation, that we're saying one size fits all; that's quite the contrary from our point of view. The legislation and the regulations should talk about the need for a nutrient management plan. Then, when it moves to meeting the objectives of that plan, it gets very site-specific, very farm oriented, dealing with soil type, setbacks, streams, slope, MDS formulas—all of those issues—because we now then move down to that individual, the capacity of that land to deal with the nutrients, the crops that are being grown, the application rates for the soil type, groundwater. All of those issues are covered on that individual, but the regulations and enabling legislation make the requirement for a nutrient management plan. That is our view of the best way to really deal with this question.

On page 4: OFA recommends that the Ontario Ministry of Agriculture, Food and Rural Affairs be named as the lead ministry and that the enforcement expertise of the MOE be really obtained and established in a unit within OMAFRA.

It's clear to us that OMAFRA does have a responsibility and an expertise that it can offer with regard

to reviewing a nutrient management plan, applying the science and the expertise through whom they staff within the organization, to give the best advice from the farm community as an agent of the government. Also we accept the notion that those people who are outside of agriculture will somehow view that if OMAFRA does the enforcement, as in the individual officer, there'll possibly be a sense of conflict there.

We're saying very clearly, let OMAFRA be the lead agency. Let them do their job, but at the same time put a unit within OMAFRA staffed by MOE expertise, seconded from MOE so you'll have the best of both worlds, in our mind, administered by one authority but having the MOE and the background of the MOE individuals being the police force at the end of the day to deal with the regulations, but OMAFRA will be housed by all segments of this legislation.

Moving on to the nutrient management plan: not really, as far as the administration being outsourced, as is being talked about, or as really within the mandate of this current legislation. Our view is that the ministry does have an awful lot of power right now to delegate versus hiring people, the authority to meet provincial regulations. If we're going to have the confidence of the consumer at large, the water user in the province, the citizen of the province, we think that the ministry should be the one which does it, versus outsourcing all of these activities.

On page 5: OFA recommends that the government of Ontario develop reasonable projections of the cost to administer Bill 81 and then ensure that sufficient funds are available for new initiatives.

We look at it this way, and this is something that is a big thing from my point of view, from a personal point of view as the president of the OFA. We're talking about bringing in legislation that is in addition to the standard for everybody else in the province. We currently have a very clear system that if someone pollutes, the MOE will move in and deal with pollution. We're talking about changing farm behaviour and farm practices and ensuring that we meet standards to prevent or minimize the risk of pollution in the future, which I think is quite a novel concept.

When we leave here, we'll all get on transportation—or at least, most of us if we don't walk—and we know we'll pollute. Whether we get on the subway or we turn the key of the ignition on, we know we're going to pollute. Fact: obvious. We're talking about preventing pollution. Our view is, if we're going to set a new bar, a very rigorous bar, there is a reason for society in general to help us meet that bar, because we're talking about reducing the risk of the possibility of future pollution.

It needs to be tabulated, what the new regulations are going to require us to do in the legislation and then help the farm community move to that new standard. We basically believe there needs to be a baseline, ongoing studies to determine the environmental and economic impact on the agricultural community. Further to that, as the science becomes more rigorous in all of these areas, I

think the farming community will quite happy, as long as we do baselining and really set a standard of meeting new standards as science is developed, and amend what we do as we have more working knowledge of that.

The inspection and enforcement: as indicated, the OFA recommends that ensuring the order should be really reserved. It goes back to my point that our goal here is to educate the farm community. We think most of us are already there with our track record. But the goal here is with local peer committees, advisory panels, commodity boards and OFA being involved with their members, of improving any behaviours that may be viewed by others to be questionable.

We would think the first step would be you talk to the person, you respond to a complaint or a concern and you check out the behaviour on that farm. Where possible, through education, suasion, peer review, suggesting new alternatives, you try and amend the behaviour. That's the first order of activity. If at the end of the time period that does not come forward, then of course you have the ability of MOE to enforce those regulations. So we see that as the second step versus the first step.

1450

Under page 8 on regulations, we recommend that Bill 81 commits the Ontario government to establish and use such committees by indicating that the Lieutenant Governor in Council “shall” rather than “may” provide for their establishment. That's back to the committee approach that I just got finished suggesting.

On the following page, the OFA recommends that such committees be composed of individuals having registered farm businesses. Again, this is the point that we know MOE as a subsection seconded to OMAFRA will be there as the administrator of the legislation if there is any breakdown and lack of compliance. So the peer review approach at the local level is really to help educate and encourage people to move to a new provincial standard; therefore, it's appropriate at that level to have people who know about the agricultural industry and can give the type of advice that's required.

As far as the closing comments, then, the OFA recommends that the Ontario government proclaim a Nutrient Management Act, complete with regulations, as expeditiously as possible, and maintain the type of consultative process that has been long going and needs to be brought in place.

We've always said, “Take the time to do it right, provincial government, because this is critically important.” But at the same time period, certain municipalities are still moving forward to bring in their own bylaws because there are no provincial regs. We still have the inability to go to farm practices through this process. We know that a patchwork is still developing across the province, so we would like you to move as quickly as you can in getting the enabling legislation passed and then move through the regulatory process. There has been a long history of consultation with the farm community and many ministries as part of that consultative process.

We think now is not the time to stop those consultations; continue them on in the developing of the regulations, and put an act in that's practical, that's workable, that meets the standard of society and still allows the appropriate farm business activity to take place in the countryside to deal with the risk.

We have learned what has happened in North Carolina and other jurisdictions in Europe in not being proactive and therefore having the nutrients get ahead of the management. So we view that there is an opportunity now to put nutrient management in place so that we'll grow our industry in an appropriate fashion and not put the environment at risk.

So with that—unless, David, you have any additional comments I missed—we'll happily answer some questions.

Oh, yes. I don't know why I didn't turn my page over. It would be totally remiss of me not to talk about the need for the government to help us meet the new standard. I did cover it off a bit, but transition funding is going to be very, very important in this.

We think, quite frankly, a new barn that's being built with new standards should meet those standards themselves. They'll make the business decision as to whether they build or not. But if there's going to be a province-wide standard brought into place, we think that the carrot approach has worked very, very successfully on a joint partnership between the individual farmer and government to help meet those new standards. We've done it with municipalities, we've done it in a number of areas with business in the past, and we think it would be appropriate to move quickly to that new standard by giving some assistance to the farm community. Thank you.

The Chair: Thank you, Mr Wilkinson. We just have a minute for each party. NDP?

Ms Churley: Thank you very much for your presentation. In fact you're correct. The Netherlands, North Carolina, I believe, have curtailed or put moratoriums on new, big pig farms, and places in Quebec have banned—in some regions anyway. You're right. We want to get out ahead of disasters here in Ontario, and that's partly what this is all about.

But what I want to ask you about, you said one size doesn't fit all, and you had a sort of remedy for that. But I would still submit to you that a municipality in its planning in its region has to take into account environmentally sensitive land, headwaters etc, tourism plans where beaches are located, all of those things within its plan, and if there is not the possibility for a municipality to have a say if there is a proposal to build a huge pig farm, then you've got a problem. That municipality and the people living in that municipality will not have an opportunity to have a say, and the environmental considerations will not be able to become part of that plan. I find that very problematic.

Mr Wilkinson: I think it only becomes a problem if there's a sense that the province gets it wrong. Our view is that if we have appropriate nutrient management—and

I'll give you an example. I sit on the Oak Ridges moraine panel, and that group has accepted the notion that there are no additional levels of restrictions on livestock operation in the Oak Ridges moraine as long as they meet environmental farm plans, nutrient management plans, the setbacks that will be part of it and the nutrient loading that goes with it.

I think you're absolutely correct in saying that if people do not feel the provincial legislation deals with their concern, it will be problematic. Our view is that we think an appropriate provincial standard that varies by region to deal with setbacks, that deals with nutrient loading to soil type, that deals with setbacks from streams, that deals with environmentally sensitive areas—if we do it right and the regulations match that and we comply as farmers, we think the local community will be happy with our farm practices.

What I think is a problem now is there is the sense that a lot of these municipalities do not have the science available to them, they do not have the management available to them, they do not have the expertise locally, and so a lot of them have been overrestrictive because they don't know how to manage this issue. It's not only agriculture nutrients; it's all nutrients. It's biosolids, it's raw sewage, it's industrial wastes, it's paper waste. All these things have to be captured by this so there's a sense of confidence we've got it right in the province.

Our view is this is possible within a provincial jurisdiction, and therefore that's our original goal. If we find in a time period that doesn't work, we're quite happy to look at any solutions. But we think it can be done with the flexibility of doing it right provincially.

The Chair: Mr Beaubien.

Mr Beaubien: I have a quick question. This morning we had a presentation from a farm group, and I'll read you what they said in their brief about public information: "Given that Bill 81 provides for the establishment of a registry to record nutrient management plans and strategies, we believe there should be a specific definition of what information is public, and what is private."

This afternoon we had a presenter, and she was talking about transparency. She said, "Farm nutrient management plans should be publicly available documents. Full disclosure is required for accuracy of property mapping and for neighbourhood oversight of local operations."

Where does the OFA stand? What is your position on this?

Mr Wilkinson: There is a process in place right now. If a farmer makes application for a building permit for a livestock operation, as an example—because we're talking about more than livestock, but nutrients in general—they will in fact have to go through the process with their municipality of making sure they've got a nutrient management plan that's been third-party reviewed by experts and that it's tabled as part of the request for a building.

Maybe a case could be made as to why that needs to be publicly available. We think the standards need to be publicly available. We think that people need to be able

to get at the fact that this soil type is allowed this level of tonnage of liquid manure per acre. Then, by definition, everybody in the municipality will know that nutrient management plan will not be approved unless they meet that standard. So everybody will know for sure what that is.

The actual details—I may want to do it less on my farm, I may have other aspects. We do not, at this point, see the need for that kind of detail to be public record. We may be convinced otherwise, but we think the standards in that municipality may need to be public, which would be provincial, by soil type, by whatever, so anyone will be able to walk in and say, “This sandy clay loam in this area has this nutrient loading for this crop that’s being grown,” and you know that any farmer who makes application will not get a building permit unless they meet or supersede that standard.

1500

The Chair: Mr Peters.

Mr Peters: The minister made the comment in his opening comments this morning that nothing comes for free, that every sound investment yields a return. In questioning to the minister, he cited the healthy futures program, the \$90 million, as one possible source of funding. Are you confident that in the discussions you’ve had with the ministry and the consultations leading up to this there will be a commitment, or what is your comment on a financial commitment from the government toward any capital improvements that may result out of these new regulations and standards?

Mr Wilkinson: I don’t believe the government has made a commitment in that regard to date. We’ve had numerous conversations with Minister Coburn as well as the previous Minister of Agriculture on the need for that commitment. We have made suggestions like opening up the healthy futures program to the type of flexibility that would allow money flowing to meet the new standard. We’ve also suggested OSTAR, and we’ve suggested there may need to be more, depending on how that’s available.

As far as I’m concerned, the government has not said no to our request, but they’ve also not said yes. So we are going to keep pursuing the fact that if a new standard is set in the province, which we’re advocating, and it costs a significant outlay of capital for individual farms to meet that new standard, for the good of the public in helping lower the risk of pollution—not talking about pollution but the risk of pollution—we will continue to work for that.

So I’m not trying to be evasive. They have not said yes; they have not said no. We’ve suggested OSTAR, healthy futures and other funding agencies to help us meet that new standard, because there could be considerable outlay required. That’s why in the presentation we’ve indicated that we want some accounting done. I believe commodities have made some attempt to try to tell the government and their staff what the cost could be, depending on what’s part of the regulations.

In all fairness, until we see the regulations we will not know, nor will the government know, the cost of imple-

menting this legislation. We could have a modest increase on the days of storage requirement. We could have requirements for fencing on all streams for the livestock sector. If that’s the case, that will be a substantial cost to producers in eastern and northern Ontario, as an example, with their cow-calf operations and their sheep operations. So I am still optimistic that the government will see a need to help us move to a new provincial standard depending on the bar that is set by this legislation.

The Chair: Thank you, Mr Wilkinson and Mr Armitage. We appreciate the Ontario Federation of Agriculture coming forward.

GLOBAL EARTH PRODUCTS

The Chair: The next delegation on our agenda, which will be our final delegation, is Global Earth Products. Good afternoon. I’m going to ask you to identify yourself for Hansard. We have 15 minutes.

Mr Tom Smith: My name is Tom Smith. I’m from Utopia, and I’m president of Global Earth Products.

Interjection.

Mr Smith: That’s right. Already I can’t disagree with the committee.

Mr Chairman, I would like to thank you and your committee for the opportunity to bring our concerns and comments for your consideration.

Global Earth Products was incorporated in 1994 to resolve environmental issues associated with agriculture. After carefully reviewing the alternatives, we determined that composting was the one solution which would allow utilization of end product after safely killing pathogens and stabilizing the nutrients in an organic form. We have developed an aerobic, in-vessel batch composting system. Our Marvel System composts farm waste or sewage sludge in a covered building where we eliminate the potential for any leachate. Our system is designed to be a practical solution for commercial farms and municipalities. Our goal is to have a measurable impact on earth, air and water.

I grew up on a farm and have been a farmer all my life with the exception of five years at the University of Guelph, where I was both a student and, after graduation, worked in the crop science department.

From 1975 to 1993 I was involved in the politics of pork. During this time I served as director, chair of Ontario Pork for three years in the mid-1980s and president of the Canadian Pork Council from 1990 to 1993.

The issues associated with manure or nutrient management became very clear to me in the 1980s. My travels across Canada and internationally brought me face to face with the problems of existing manure management systems. In Taiwan, the ocean was a disposal area. In Holland, the overapplication of manure on small acreage had nitrates at threateningly high levels. In North Carolina, lagoons were leaching or overflowing into lakes and rivers. In Canada, there was a false sense that if we eliminated the odours, we eliminated the problem.

History has now shown that the issues are much more serious than simply masking the problem.

I am deeply concerned with the depletion of our water, both in quality and quantity. I am also a strong advocate of the importance of the livestock industry to the well-being of agriculture and the country as a whole. It is with this background that we formed Global Earth Products and have developed our Marvel cost-effective total nutrient management system which kills harmful pathogens, stabilizes nutrients, eliminates odours and produces Utopia Gold, a high-quality organic fertilizer and soil amendment to enrich soil quality. Therefore, I laud the government for taking serious steps to protect our environment.

I do feel very strongly that there are a number of policy issues that must be addressed before the legislation is in place. I not only offer but request the opportunity to work with staff in addressing issues which currently restrict the ability of individuals or companies to make progress in resolving environmental issues.

The greatest obstacle to making progress environmentally for Global Earth Products, sad to say, has been the Ontario Ministry of the Environment. Although the ministry speaks of its desire for waste diversion, the staff appear bound by 1991 legislation. If the ministry would allow practical solutions, we could have a measurable impact on water quality more quickly than it has taken to create new policy.

We require carbons to mix with farm manures to attain high-quality organics without losing these farm-generated nutrients in the process. Corn stalks, straw and other carbons generated on the farm can be used. However, leaves, backyard wastes, wood chips and other by-products are an excellent carbon source for on-farm composting. The combining of these products not only solves a landfill issue and a farm issue but also creates a spirit of co-operation between urban and rural populations.

Government policy suggests that leaves are a waste, and therefore farmers must designate their farms waste disposal sites in order to receive these leaves. This attitude is totally unacceptable. Despite written requests from a municipality and a local federation of agriculture, leaves are being directed to landfill. We have a couple of exceptions where the community worked with the farmer to get leaves to that farm to resolve the issues; however, in reality, that could be challenged as being illegal.

We have requested a systems approval, whereby farms using our Marvel composting system would be granted the right to receive leaf and yard waste, wood waste or compostable vegetable waste for the purpose of composting with agricultural waste without a certificate of approval. A second option would be to allow the farms to be an extension of their municipal system. A third alternative would be to have a system of approval similar to that operated by the biosolids committee.

Another issue is the compost guidelines currently in place in Ontario. The levels allowable were not based in science and had no relation to or consideration of

compost generated on-farm. Livestock are fed high levels of nutrients and minerals for growth, and as such the presence of nutrients in manure is well understood. How they are handled is the issue. Unless policy issues are addressed, you will be forcing the utilization of practices already proven troublesome, namely the spreading of raw manure. You will be making it difficult or impossible to use the Marvel composting technology or others like it.

1510

Even though we have killed all harmful pathogens, captured all the nutrients and stabilized these nutrients, reduced the potential for leaching or runoff, created a high quality organic fertilizer which can be marketed off the farm to areas that are low in organics, yes, even though we resolve all the issues that the government says they are attempting to address, we could be told, "Your nutrient levels are too high. Take this product to the landfill."

Guidelines for the marketing of farm-related composting must not be made more stringent than for the use of conventional manure systems, or the spreading of raw manure will by necessity be the method of choice.

Bylaws for on-farm livestock facilities must take into account new technologies which can reduce the number of days of storage and also the minimum distance of separation. In other words, if we've resolved all the odour issues and any of the issues with leaching, then there should be a different set of guidelines as to where these buildings can be and should be.

Agriculture in Ontario has less government support than most regions in North America and Europe. Clean air, productive, healthy soil and pure water are public issues. We ask for consideration of support programs for farms to adopt new technologies which resolve environmental issues.

In summation, it is imperative to address these issues before putting suggested regulations in place: allow leaves and other carbons as a feedstock to on-farm composting; guidelines for farm-related composting must be based on nutrient end uses rather than opinion; public support for the uptake and use of new technology; flexible guidelines for minimum distance separation and storage requirements with new technologies; and we offer assistance in the development of practical, meaningful policies.

I thank you for this opportunity to bring to you our concerns and suggestions for creating a new environment of respect and trust among the stakeholders in our province.

The Chair: We have a little more than a minute for each party. I'll begin with the Conservatives.

Mr Galt: Thank you very much for your presentation. We've talked to you about this particular issue before, and I'm wondering if you have any feelings why MOE is so entrenched in this particular position. I think in terms of pesticide containers, when the law said you must bury them, yet at that time they were encouraging the recycling of them. It's kind of a similar thing here, I think, with leaves. I have a little difficulty believing

there's toxic materials in leaves—why they couldn't be moved as a carbon source, as you say.

Mr Smith: One of the difficulties we've come upon is that the police side of the environment ministry are saying, "We don't make the rules; we just enforce them. Go and see policy." Then we see policy people, and they say, "We looked at issues a number of years ago and we're five years away from another review, so come and see us after the review is done." We don't believe there's time to wait five years for another review to see whether leaves can be taken from the list of wastes. It's only practical to allow them to bring them to the farm. Something simple should be able to be done without chaos in the system. I think some of their concerns were, do we have possession of them from the time they leave the curb until they get to the farm, and so on? But the issue is the same wherever they go.

What we had in the one case was that the municipality supplied the paper bags to a local village, they put their leaves in them, brought them to the farm on certain Saturdays, and it worked very well. But when they wanted to do this where they were doing their own collection, they were afraid of the ministry rules and weren't allowed and ended up going to a landfill, which is really a shame. We believe there's a real need to bring the community back together and have the agricultural industry and the urban side work together, and this was an excellent way of doing it. Those people who came to the farm were very amazed that how things really are on the farm are not how they had perceived them. They brought rubber boots in their cars, and so on, and of course you don't need them at all. So it's a learning process. We need resolve quickly before you have these police going out and saying, "We can't do anything about it. That's the rules we have," and preventing new technologies from moving forward.

The Chair: Comments or questions?

Mr Peters: I commend you for what you're doing, Tom. My community of St Thomas in 1994 entered into a city-wide composting program where everything goes to a centralized composting facility, leaves included. I'll tell you, at this time of year right now it's really handy. We've been able to divert almost 50% from a landfill site as a result of that.

In-vessel composting: we had a presentation earlier today about concern over biosolids and septage and spreading it on fields, and the question was asked, "What do you do with it?" That is the big question. Does your process have the ability—could you handle biosolids from a waste water treatment plant, perhaps mixed in with leaves and other materials, so that in the end you've got a clean product coming out? Is this a possibility to deal with some of these issues that we don't know how to deal with right now?

Mr Smith: Right. We would like to take kitchen waste, in which there are a lot of carbons, paper products and so on, blend that with the sewage sludge, whether it be dewatered or liquid, and compost those together. The end product you have would perhaps have a different use

than what we're generating as an on-farm compost but certainly would be much safer. You reduce dramatically the volume you have to deal with, and transportation costs alone would be an incredible opportunity to save dollars. I would like to see that everyone is comfortable with how that end product is used and that the research is done. Currently it's being spread on farm fields and supposedly that's fine. If that's reality, that's great. I would still like to see research that we are using it where it best should be used. But yet it is definitely an answer to the issues.

Ms Churley: Thank you for your presentation. I agree with you that it's a crime, almost, to have leaves going into landfill in this day and age, given the problems we've got in siting landfills.

Mr Galt and I are sitting on another committee, almost as we speak, the alternative fuels or energy committee, and we had over the course of a week fascinating, incredible new technologies and some not so new that for some time have been used successfully in Europe and the US. Of course, we're far behind in many of those. It's very clear to me that we have problems in our system. We've heard, for instance, that the approval process for siting windmills is much more stringent than some of the more polluting but better-known forms of producing energy. On the other hand, we heard from a couple who sounded like they had the perfect system without any pollutants whatsoever and felt they should get fast approval. But if you look into it after, there's a little piece they didn't tell us about—I'm not going to name names—that actually would, in my view, need to have a full environmental assessment and a really good look at it. What I'm trying to say here is that there is always a balance there so that we don't proceed and put things that could be polluting into the atmosphere.

Having said all that, I agree with you about the need to find ways to get this new green technology on board. I wanted to ask you if this process you just described is being used in any other jurisdictions.

Mr Smith: Yes. Our first unit is in at Ridgetown College. We've done a lot of the research at the college, using various carbons and learning about what losses we don't have or the savings we can have in nutrients, as well as the impact on metals and that kind of thing. We've tested quite a number of systems there and are very comfortable with the end result. We have two in operation at this time and, we believe, ready to expand it much more widely. But one of the issues is the cost of carbons that you blend with the manures, and having a zero cost for carbon is very important. We purchase the compost back from those who don't have a very large land base or who maybe have nutrient levels that are too high on their farm. We will market that to golf courses or other farms that don't have access to organics at this point. So we are looking after the back end as well. The issue of having a high-quality carbon at low cost is important to show the cost-effectiveness of the system.

The municipalities we've spoken to are very excited about the potential, but getting around these regs—we

went to the Red Tape Commission to look for solutions, and some of the ones I mentioned today were suggestions they made to us. But when we tried to get that through the process we got stalled out once more. I guess what we're saying is, please help us to allow for these kinds of things in the future or you're going to be having a situation that the only technologies you can use are the old ones that are already a problem.

Ms Churley: Point taken. Thank you.

The Chair: Thank you, Mr Smith. We appreciate that explanation to the committee. Seeing no further business—Ms Churley?

Ms Churley: Could I just ask a question? Was there a paper document of the minister's comments this morning?

The Chair: A copy of his speech?

Ms Churley: His speech this morning.

The Chair: We could ask that it be made available. Are other members interested?

Ms Churley: I would appreciate that, because my notes aren't adequate and there will be somebody subbing for me at various points along the way in this committee over the next few weeks.

The other question I had to ask, because I don't have the minister's statement in front of me, is if you, Mr Chair, have any idea if there are any timelines on this legislation and the process for consultation around the regs. If not, could we ask the minister for that information for the benefit of the committee?

The Chair: I would do that through the clerk, probably. I think that direction would be more apparent once the House reconvenes.

Ms Churley: I was just wondering. Perhaps at this point there isn't any, but if that's the answer, I would like to know that because people are asking me who are interested in the process here.

The second thing I would like to have on the record is that it's becoming increasingly clear, as we heard from people today, that there are two other processes going on. The government recently announced that there's finally going to be a groundwater study done in this province, which I believe would have a direct impact on this legislation and the regulations. The other thing, of course, is that the Walkerton inquiry commission will be making recommendations over the course of the year which indeed will have a profound effect, I would say—should, at least—on this legislation. Again, that's why I asked about time frames, because I believe that those two should and probably will—and I'd be disappointed if they didn't—have an impact on the legislation and regulations for this bill before us today.

If there's a question in that, it would be if the minister will be taking those two issues into account as he thinks about the time frame for carrying this legislation through and writing the regulations.

The Chair: I think we can do that through this committee.

Any further comments? Seeing none, I would now adjourn the committee.

The committee adjourned at 1523.

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Government
Publications



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J-11

ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Monday 10 September 2001

Journal des débats (Hansard)

Lundi 10 septembre 2001

Standing committee on justice and social policy

Nutrient Management Act, 2001

Comité permanent de la justice et des affaires sociales

Loi de 2001 sur la gestion
des éléments nutritifs



Chair: Toby Barrett
Clerk: Tom Prins

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY

Monday 10 September 2001

The committee met at 1031 in the Royal Canadian Legion, Branch 154, Caledonia, Ontario.

NUTRIENT MANAGEMENT ACT, 2001

LOI DE 2001 SUR LA GESTION
DES ÉLÉMENTS NUTRITIFS

Consideration of Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts / Projet de loi 81, Loi prévoyant des normes à l'égard de la gestion des matières contenant des éléments nutritifs utilisées sur les biens-fonds, prévoyant la prise de règlements à l'égard des animaux d'élevage et des biens-fonds sur lesquels des éléments nutritifs sont épandus et apportant des modifications connexes à d'autres lois.

The Chair (Mr Toby Barrett): Good morning, everyone. I wish to extend a welcome to this regular meeting of the standing committee on justice and social policy for today, Monday, September 10. We're meeting in the Royal Canadian Legion, Branch 154. We're very pleased that the Ontario government and the standing committee are visiting Haldimand county. This may be the first time a standing committee has visited. We'll let the historians work on that one.

As members of the committee would be aware, we travel to St Thomas tomorrow, then Chatham, then Clinton. We finish this week in Owen Sound, on Friday. The following week we travel to points east and points north.

The agenda for the standing committee is Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts.

Our order of business today is delegations, and we have had a significant response from delegations. During the course of the day we allocate 15 minutes for each delegation and in many cases, hopefully, there will be opportunity for members of all three parties to make comments or to offer questions toward the end of that 15-minute period.

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Lundi 10 septembre 2001

WESSUC INC

The Chair: Our first order of business: I would ask Wessuc Inc to approach our witness table. Pull up a chair, sir. It's important to speak into the microphone. Everything is recorded for Hansard. For the purposes of recording, could you give us your name and then please proceed.

Mr Bruno Puiatti: My name is Bruno Puiatti. I'm project manager with Wessuc Inc. We're a biosolids management company and we also specialize in the cleanout operations of water and waste water treatment facilities. We're quite honoured to be here to present a few issues and concerns that we have with Bill 81. We are also pleased that Bill 81 does incorporate biosolids in it.

Again, Wessuc specializes in the cleanout of water and waste water treatment facilities and is a leader in the land application of biosolids. Wessuc formally supports Bill 81 in principle and sees it as an opportunity to elevate Ontario's biosolids management industry. Wessuc executes best-management practices in all its agricultural operations and has made a conscious effort to raise the bar in the industry by implementing innovative technologies and creative practices that protect the environment.

Do you guys have access to these handouts?

Mr Garfield Dunlop (Simcoe North): Yes.

Mr Puiatti: I'm just going to briefly skim over our land application technologies, and in the appendix there are a couple of diagrams and pictures just to get you guys up to date with what we're talking about here.

As it pertains to the land application of liquid biosolids to agricultural fields, Wessuc has taken great strides in setting new industry standards. We have adopted the following technologies to our draghose injection system: flowmeter technology, shutoff valve technology, high-flotation equipment—which is common practice in the industry—and a 23-foot-wide injection bar.

The above technologies decrease the potential for runoff, increase aesthetics, decrease odours, maximize nutrient availability to crops, decrease nutrient loss into the natural environment, decrease soil compaction and ensure a uniform spread.

Depending on soil type and various site-specific field conditions, separation distances should decrease due to decreased environmental risk when employing the above

technologies. When spreading technologies that decrease the risk to the natural environment are used, Wessuc would like to see legislation formally integrate concessions in reduced separation distances.

To date, the service from the Ministry of the Environment has been inconsistent across the board. Some offices have done the best with what resources they have. Others have been quite public about putting a low priority on biosolids. This is unacceptable from our perspective. The MOE cannot continue administering biosolids on a provincial level unless things change drastically.

Wessuc would like to see consistency across all administering and/or enforcing offices. These agencies should provide fully trained and experienced officers who have the capacity to understand site-specific conditions and who have a strong working knowledge of soil chemistry and soil physics.

There are a couple of detailed points underneath there that you guys can read on your own.

When reading the bill, it is unclear as to whether there will be delays in issuing biosolids spreading approvals in the future. Regardless if nutrient management planning will or will not replace the C of A process, the governing authority must establish and maintain a quick and consistent approvals process. Ongoing delays, again, cannot be tolerated.

Wessuc is suggesting that a province-wide standard of a minimum turnaround time of 10 business days or less be established for all administering offices in issuing biosolids spreading approvals.

There are several points as to the benefit of getting these C of As or approvals done, and you guys can read that on your own.

Although the land application of digest or cleanout material is an insignificant portion of the total annual volume of biosolids being land-applied as an organic soil conditioner, it can pose significant environmental concerns. When land-applying biosolids from digest or cleanout operations, the possibility does exist for mats of hair, large volumes of plastics and other inorganic solids to be disposed of on agricultural fields.

Wessuc believes this unscreened material is not appropriate for land application. If you look at the appendix, there's a little diagram for you showing the back end of our screening unit. When we say material not deemed eligible for land application, when you don't screen out your digesters this is what goes on a farmer's field.

To our main point: Wessuc recommends that government legislate a science-based, decision-making protocol that will allow responsible reapplication of biosolids on agricultural fields less than every five years, should it be justifiable. For instance, should investigations deem an application of biosolids once every four years instead of the usual five, this will allow applicators to follow a farmer's typical four-year no-till crop rotation. Presently the guidelines allow for biosolids spreading every five years on a typical no-till field, which essentially makes

these fields available to biosolids incorporation only once in every seven years.

OMAFRA is staffed with trained professional biosolids program coordinators who have strong agricultural and environmental backgrounds. They are well-versed in the management and land application of biosolids and have a strong working relationship with municipal and agricultural sectors.

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OMAFRA engineers were the designers of the now famous NMAN nutrient management planning software, where biosolids are also integrated. They have worked diligently in making nutrient management planning common practice in the agricultural community. The administering or enforcing ministry should not only consider its duties in the realm of enforcement but must include mediation and liaison between inquiring or disputing parties.

Presently, it is Wessuc's contention that OMAFRA has the experience and knowledge to better administer biosolids as it pertains to Bill 81. Wessuc recommends that OMAFRA be named the lead ministry for biosolids land application programs and enforcement expertise be established through a special unit within OMAFRA in consultation with the Ministry of the Environment.

Municipal storage facilities: mismanaged storage facilities or inappropriate storage facility management can commonly be implicated in poorly run land application programs. Wessuc strongly urges that legislation be passed mandating municipalities to establish storage facilities for at least six months. The storage facilities must be environmentally sound and must be monitored to ensure quality control and to prevent cross-contamination with other wastes.

Municipalities using biosolids land application should fund research and field studies to keep information recent. Relevant findings can feed decision-making processes at the legislative level and allow for upgrades to existing or future legislation. Wessuc recommends that the act require preliminary baseline and ongoing studies to determine the environmental and socio-economic impact that the legislation has on the agricultural and biosolids management industries.

Baseline and ongoing studies will also serve as a useful tool for generating information on which to base revisions to the regulations over time. The goal is to ensure that both the environment and the biosolids management industry improve significantly over time.

In conclusion, a true partnership approach must be taken as Bill 81 continues to develop. It is essential that municipalities, contractors, the province and other stakeholders work co-operatively to ensure the success of the new biosolids management framework in the province. The legislation must reflect reasonable science-based decision-making protocols.

Wessuc recommends the establishment of a biosolids advisory group comprised of industry managers; municipal, OMAFRA and MOE biosolids coordinators; waste water plant operators; and the end user. Wessuc would

also like to participate with legislators and government officials in drafting the regulations to the act as they pertain to biosolids management.

Thank you for this opportunity to speak to you.

The Chair: We have about a minute, a minute and a half for questions. In keeping with tradition, we'll do a rotation. I'll begin with the Liberals. Mr Peters?

Mr Steve Peters (Elgin-Middlesex-London): Thank you very much, Mr Chairman, and good morning, Bruno.

Within the legislation it talks about compliance within five years. What are your thoughts on that? Do you think that five years is adequate? Should you be moving quicker or should we be taking longer?

Mr Puiatti: I think five years is a lot of time for municipalities and contractors to comply. I think the response time on behalf of the contractor would be a lot quicker, because there are less capital costs incurred. When you're talking about storage facilities for a lot of these municipalities, obviously they need funding for that, and you can't build storage facilities within, I guess, four to six, or six months to a year. I think five years is ample time. I think the quicker the better as long as it's done responsibly.

Mr Peters: Just quickly, who accepts responsibility? Where does the liability lie? When you go to a waste water plant and you pick up the biosolids, and if there were higher trace amounts of a chemical or a residue in those biosolids, and you go and spread that on the fields, where does the liability lie? Is it with you for having picked it up, or does the liability still rest with the municipality?

Mr Puiatti: Well, before we get to that point, there are certain quality control measures that have to be established in terms of metal concentrations in the biosolids. Chemicals are tested for, and the MOE has to give us approval in order to haul that material to land. That's why we get a certificate of approval. So as long as the quality control is established, then we take it to the field.

I think ultimately it's the generator's responsibility; however, if there's ever a scenario where litigation is occurring, I think everyone's going to have the finger pointed at them.

The Chair: I now go to the Conservatives. Dr Galt.

Mr Doug Galt (Northumberland): Thanks very much. I have a couple of statements and three quick questions. The first one, you were concerned what it would apply to. I can assure you it's going to apply to all conditioning of soils and all nutrients; it's all-encompassing. The particular bill is enabling legislation so it enables all of that to be included. That's certainly the intent at this point.

On the five years, you mentioned a concern there. The nutrient management plan will be based on what's already in the soil, what crops are going to be grown and what those crops can consume. The intent is that there won't be excessive nutrients put on at any one particular time, so it won't end up going into the groundwater, into the surface water, whatever.

I empathize with your concern about getting the turnaround on certificates of approval. However, if we were talking about biosolids from a community, that community knows years ahead of time what's coming, so there really should not be any reason for panic to get a certificate of approval. They could apply for several years down the road because they have a pretty good idea of what's coming. I guess I have to question the urgency there, although I empathize with it. It's in your point under "Minister of the Environment."

Mr Puiatti: If I can jump in—

Mr Galt: Can I just give you the three questions and then I'll leave them to you?

Mr Puiatti: Yes.

Mr Galt: Second is enforcement, and you have "OMAFRA, in consultation with MOE." Provided it's agricultural people, does it matter whether it's MOE or OMAFRA?

The third question is on your equipment, that hose you drag across the field. I've watched it functioning. It looks tremendous because you don't have all that weight out there. What's the life expectancy of one of those hoses?

Mr Puiatti: Fair enough. The first one was the C of A turnaround.

Mr Galt: Yes. Why the urgency when a community knows way ahead that it's coming?

Mr Puiatti: I think the urgency is because the community doesn't necessarily get the certificates of approval issued in their name. For instance, municipality XYZ hires a contractor to haul and spread the material. Usually it's the contractor's responsibility to obtain the certificates of approval in their own name. So even though the municipality knows that they have a land base requirement of 3,000 acres a year, it's up to the contractor, usually, to obtain those certificates of approval. A case in point: we were just awarded the contract in Brantford. We started with zero licensed fields in the spring of this year.

The window of opportunity to spread biosolids is restricted with weather, crop rotations—the whole gamut. If I have a three- or four-week window of opportunity to get as many loads out as I can, I want to make sure that the only thing that does restrict me is weather and the farmer's ability to receive the material because of cropping conditions.

Mr Galt: It's a total planning problem here.

Mr Puiatti: I don't want my C of A to be sitting on some guy's desk for three to eight weeks. That's what is happening now.

Mr Galt: Then the municipality shouldn't have waited until the last week, when the tank is full, before they get the contract.

Mr Puiatti: I don't understand that.

Mr Galt: They wait until the tank is full. Once they've got to get it out—

Mr Puiatti: It's usually the contractor's responsibility to empty the storage facilities. But the point is—

Mr Galt: It's a problem.

Mr Puiatti: Yes. You don't want the lag to be on the approvals end. Give me all my licences, as long as everything is done properly, and then whatever weather dictates, that's—

Mr Galt: The second question was enforcement. Does it matter which ministry?

Mr Puiatti: I don't think so. I honestly don't think so, but I want people out there enforcing who understand agronomy, have a strong understanding of soil chemistry and soil physics.

Mr Galt: How long can you drag that hose across the field and over stones some thousand feet or so before it explodes or weakens or breaks or wears out?

Mr Puiatti: I think they're guaranteed for four years.

Mr Galt: Four years of dragging.

Mr Puiatti: Well, you're not dragging every day.

The Chair: Thank you, Mr Puiatti. That would wrap up your time. We appreciate that presentation on biosolids.

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AZURIX NORTH AMERICA LTD

The Chair: Our next delegation, I'd like to call forward Azurix North America Ltd. Have a chair, gentlemen. For the purposes of Hansard, we would ask you to give us your name and then proceed.

Dr Mel Webber: My name is Mel Webber. I'm an environment consultant working with Azurix. My colleague is Phil Sidhwa, who is with Azurix.

We appreciate the opportunity to make this presentation. Azurix is heavily involved, as the previous speakers, in biosolids application to land. We support the introduction of the legislation, because we feel that it will facilitate environmentally responsible management of materials containing nutrients.

Azurix currently is probably the largest biosolids management operation in Ontario. They look after biosolids for the municipalities of Halton, Waterloo and Niagara, and the cities of Toronto, Hamilton, Kingston and Belleville. Currently we're spreading 200,000 tonnes of solid material and approximately one million cubic metres of liquid material on more than 10,000 hectares of land in Ontario.

Currently land application is the preferred biosolids management option for more than 80% of municipalities in Ontario. The other options, essentially, are landfilling and incineration. Both of these are expensive, and there are reasons why people are not particularly pleased with them being done.

Land application has been practised for approximately 30 years in Ontario under guidelines that currently are in effect. There has been no documented environmental or health risk associated with this practice. Currently the agricultural value of biosolids going to land is approximately \$250 per hectare, mainly as nitrogen and phosphorous fertilizer. The program in Ontario saves farmers approximately \$5 million of fertilizer cost per year.

Materials containing nutrients such as waste water, biosolids, commercial fertilizers and animal manures represent potential risks when they are applied to land. Improper management of these materials may contaminate surface and/or groundwaters. The proposed Nutrient Management Act will provide authority to establish standards for managing these materials. Azurix North America is very much in favour of the proposed legislation.

Consistent with this, Azurix North America is requesting participation in the development of regulations and standards, particularly as they relate to waste water biosolids under the proposed legislation. We are aware of many biosolids management issues that should be addressed by new regulations and standards, and I want to highlight just a few for you.

Currently there isn't particularly consistency between federal and provincial regulations and guidelines. We would like to see that consistency put in place in new regulations and standards for Ontario.

We feel that provincial regulations and standards for biosolids management must supersede municipal bylaws that circumvent the intent and spirit of the Nutrient Management Act, this to prevent a proliferation of different regulations from municipality to municipality. Regulations and standards should be administered consistently by provincial offices.

Land application of biosolids according to regulations is normal farming practice and should be considered similar to application of other materials containing nutrients, materials such as manure and commercial fertilizers.

Ontario Ministry of the Environment inspection of all biosolids application sites prior to issuing certificates of approval should not be required. They require large resources and create delays in program delivery, as has been talked about in the previous presentation. They should be replaced by strict enforcement through regulations and standards and penalties for non-compliance.

If the Ministry of the Environment is required to approve individual sites, it should be allowed a specific time frame to do so, as again was raised in the previous presentation.

Environmental Bill of Rights review of application site forms is unnecessary. It will delay biosolids application at critical times and will compromise the confidentiality of farmer and landowner information.

We have several other issues that we raise. I'm not going to go into them in the interest of time. I will highlight number 11 on page 5.

The Ontario Ministry of the Environment must take an active role in publicly defending the biosolids management regulations and standards. While it is understood that the ministry's role is as a regulator and not a promoter of the program, it must be able to defend the science behind the regulations on a day-to-day basis to the public.

Azurix is prepared to participate, to contribute to this program, and I have five or so headings here. Azurix is

prepared to sponsor land application of biosolids research and public education programs. They are prepared to participate in the development of new regulations under the proposed legislation to address biosolids management issues specifically. They are prepared to help with the development of a central registry for record-keeping; the development of best management practices using state-of-the-art technology and equipment; and they are prepared to participate in developing the training and licensing system for qualified land application operators.

In conclusion, land application of biosolids saves Ontario farmers approximately \$5 million annually in fertilizer costs and avoids landfilling and incineration. Involving Azurix North America's expertise will ensure that new regulations and standards for biosolids management are both practical and comprehensive and, we feel, will facilitate continued land application benefit to agriculture.

We thank you for this opportunity.

The Chair: We have a short minute for questions. We now go to the Conservative side.

Mr Dunlop: Good morning, Dr Webber. It's a good presentation. Can I ask one question about the saving to the farmers, the \$5 million annually? Can you expand upon that a little bit? With improved technology and regulations, do you think we can improve upon \$5 million in savings to the farmers, if in fact there is a savings?

Mr Phil Sidhwa: The \$5-million saving is addressed through the savings from nitrogen and phosphorous fertilizer equivalents in some of the minerals that farmers get out of the biosolids. We believe those savings can be enhanced and can improve through best management practices, through proper nutrient management planning. We think that number can be higher in terms of savings.

Mr Peters: A couple of times through your presentation you talked about your own experience and expertise and what you could offer. You were very clear in here that the Ministry of the Environment needs to be able to defend the science of biosolids. Some people would think that if you were to offer your expertise, you're going to come at it with a bias because you're in the business. Is there somebody out there we could go to or the government could turn to who is independent, be it a university or somebody out there seriously looking at the biosolids issue and studying it so that they can defend the science, so that we could turn to them for the regulations and standards when they're being adopted? I'm not saying I wouldn't want to hear from you, but I think from the public's perspective, they want that independent view. Who is out there that we could turn to?

Dr Webber: Certainly there are people out there. The University of Guelph has people who are currently doing some work on biosolids application to land. Also, federal agriculture: there are federal agriculture research stations at both London and Harrow in Ontario. There are people there who could be doing more work than they're doing. There hasn't been a lot of provincial or federal support

for research into biosolids recently. I guess my opinion is that there ought to be more. But there are both university and particularly federal and some provincial people available to do this.

The Chair: Thank you, Dr Webber and Mr Sidhwa, for your presentation on biosolids.

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GRAND RIVER CONSERVATION AUTHORITY

The Chair: I wish to call forward our next delegation, the Grand River Conservation Authority. I would ask you to identify yourself for Hansard.

Ms Tracey Ryan: I'm Tracey Ryan from the Grand River Conservation Authority. I'm presenting on behalf of the conservation authority today and bringing forward our concerns as water managers. We have made submissions to previous consultations on intensive agriculture and also to the Walkerton inquiry.

There's a need for source water protection to ensure the safety of Ontario water resources and a provincial water policy framework to address all impacts on water quality, including things such as septic, urban development, agriculture, rural land use change, golf courses, aggregate, whatever. It is required to provide a holistic approach to source water protection.

Bill 81 is one of the tools that is being used to address the impact of nutrients on ground and surface water, and it's very comprehensive in its definition of nutrients. Unfortunately the act potentially falls short of protecting ground and surface water from other potential contaminants in these materials, other than just the nutrients, as well as other materials that originate on agricultural and other lands.

The Grand River Conservation Authority's focus is to strengthen the water protection potential of Bill 81 and its proposed regulations in the absence of a provincial water policy framework. To that end, we have put these forward, with our experience in the delivery of rural water quality programs in which we have offered farmers a great deal of financial and technical assistance and have provided a lot of technical assistance around nutrient management planning in areas of our watershed.

We see that the nutrient management plans, as they are currently written, are an agronomic prescription to avoid the over-application of phosphorous, and the plans need to be enhanced to include best management practices for the management of pathogens as well as nitrogen and other potential contaminants. So there's a need for the plans to focus on water protection as well as agronomy.

The nutrient management plans need to be placed in a watershed context. The plans need to give more regard to the resource constraints on the farm, such as wetlands, hybrid soils, floodplains, cold and warm water streams, shallow bedrock and groundwater recharge areas. If the property had any of these environmental constraints, the nutrient management plan would have to account for these or the landowner would need to undertake their

own sorts of studies to show how these impacts would be mitigated.

There is a need for updated provincial resource information available at the regional scale so that landowners could utilize that, as well as decision-makers.

In terms of monitoring, surface and groundwater monitoring is essential—the monitor changes in groundwater and surface water quality—to implement measures to address trends before serious environmental impacts occur. So there's a need to develop baseline water quality information to enable the province to measure the effectiveness of nutrient management plans across the province as a whole.

Although there are some historical surface water data from the provincial water quality monitoring network, we feel that network needs to be assessed to determine if it is currently adequate.

Individual landowners should be required to file baseline well-water samples with their nutrient management plans. This would provide a very good picture of the quality of groundwater and enable landowners to spot trends that might be associated with their own practices.

In light of new and expanding intensive agricultural operations—and this is very similar to consultations we've provided before—provide a comprehensive water protection plan and undergo more rigorous environmental review. That should include baseline information on ground and surface water as well as assessment of environmental conditions on the property, and that would provide a means of mitigating potential impacts.

Concerning septage and biosolids, the Grand River Conservation Authority supports the proposed ban on land-applied, untreated septage over the five-year period and sees this as a very important strategy for the protection of water resources in the province. But it is critical that a strategy for the alternative disposal of septage waste be developed in the interim.

The Grand River Conservation Authority supports the inclusion of biosolids application in the proposed Bill 81 and its regulations. Our board has been calling for more proactive monitoring and inspection of biosolids to ensure prescribed standards are being used. As with all nutrient management plans, there is a need to include a watershed context in the approval of those lands for biosolid application.

Around implementation, we recognize there's a need for a long-term approach to address the complex challenges facing landowners. This approach must recognize the role that agriculture can play in protecting source water if it is provided financial and technical resources to implement best management practices. There is a recognition that agricultural land use is one of the best ways to protect source water if it's given the proper resources. This requires education, technical support, financial assistance, research and partnerships to implement programs that support water quality improvement and protection.

As you may be aware, many conservation authorities, including the Grand River, deliver rural water quality

programs providing financial and technical assistance to landowners. In the absence of provincial or federal funding, municipalities such as the region of Waterloo, the county of Wellington and the city of Guelph have recognized the importance of these programs and provided core funding for the initiatives in recent years.

A federal and provincial recommitment to financial assistance programs is required to provide clean water for public health. Obviously, OMAFRA through the healthy futures program has begun to support these programs. But the programs must provide a longer-term implementation schedule for effective delivery and support existing rural water quality programs as well as new initiatives.

The province should build on the expertise and experience of conservation authorities' agricultural extension programs rather than creating new ones. Conservation authority agricultural program delivery and development involves many stakeholders, including agriculture, as well as provincial and municipal governments.

The Grand River Conservation Authority's rural water quality program has been used as a model of program development and delivery and has successfully received funds, as I said, from both provincial and federal governments now. The problem with the support from those programs is that the time frame is generally too short and requires existing programs to basically reinvent themselves in order to be eligible. We have had a great deal of uptake by local landowners in implementing manure storages and nutrient management plans and a vast array of other things that the act potentially could cover.

To the end of the role of conservation authorities, we support the ability to delegate components of Bill 81 to provide the opportunity for local, cost-effective delivery. Conservation authorities deliver extensive local stewardship and watershed management programs, and there may be opportunities to discuss where conservation authorities could provide viable, cost-effective service delivery in specific areas consistent with their other watershed programs. They can provide valuable input into nutrient management plans, agricultural best management practices and other regulations based on their broad experience of delivering watershed and agricultural stewardship programs in Ontario.

The Chair: Thank you, Ms Ryan. We have about two minutes for each side. I go to the Liberal Party.

Mr Peters: First and foremost I'd like to just commend what you've been doing within the conservation authorities, faced with 80% cuts in your budget and wonderful programs that have been cut, like the CURB program, which went a long way to dealing with some of these issues. I just want to pay tribute to all conservation authorities. There's some merit in what you're saying as far as the role that you play, because one of the issues is that the conservation authorities don't respect municipal boundaries, that a watershed can go through, like yours—how many counties?—maybe five, six counties and goodness knows how many municipalities. So I see a role for you. Plus, people trust the conservation authorities.

That's one thing that I, coming from a municipal background, have observed. There's a lot of trust all around, and you have a way of getting people to work together, and I commend you on that.

Right now across Ontario it seems to be the new operations that are the ones that are in the news, whether they're in Otterville or in Amberley in Huron county—there have been some in eastern Ontario—and you raise some issues on new operations. I'm not advocating that every new operation go through an environmental assessment process, but would there be some merit in saying, "Let's just pick a couple of the new operations and let's run a full EA on them, just to see"? Would it answer some of the questions and help make it easier down the road to understand a new operation, if we picked a couple of examples and said, "We're going to run it through a full EA," to answer all those issues that you've raised there? Is there any merit in doing that, just to find out?

Ms Ryan: What we would be more interested in is that there would just be the ability, I think more for societal assurance, to be assured that that operation has taken into account all those things. So when they go through the planning, currently it doesn't raise any other red flags as an agricultural operation; regardless of size, it's treated the same. I think there's some concern from society's point of view that all those other things haven't been taken into account that potentially, if you were changing zoning from agriculture to something else, whether it's a golf course or industrial, would need to be done when you do that. So from a societal assurance point of view it may not, in effect, change the operation in any significant way but it would prove that they have taken into account all of those things. What we're saying as well is that a nutrient management plan, regardless of size, needs to take into account the specific environmental resources on that property. Obviously, whether they are submitted to an authority for approval is something totally different, and that seems to be something that's being proposed as size-dependent. I think an EA perhaps is a little more intensive than an environmental impact study or something along that line.

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The Chair: I'll now go to the Conservatives.

Mr Galt: Thank you for a rather interesting presentation. You may be pointing out a problem or hole, or whatever you want to call it, in the bill. The intent, of course, is this is a major step in Operation Clean Water for the province and it's all about ensuring clean water.

I'm wondering, should your area of concern be addressed further in the bill—because it's an enabling bill—should it be addressed further in regulation or should it be a flag up for those who are approving nutrient management plans down the road? Have you thought through where this should be appearing? We're out after first reading, which is more like what you might call a white paper, a government position, but we're still reasonably flexible looking at this. I don't disagree with what you've said. I just want to know how to take this back. Is that a fair question?

Ms Ryan: It's a very fair question. Personally, I'm not sure I have thought that through. I know that in our office we have individuals who do look at nutrient management plans that are submitted through our program, and then they go on to OMAFRA. I know that one of the issues is potentially, just at that scale, as you said, to raise that red flag that those need to be in there. I guess it depends on where you want to ensure that that gets covered, whether it's in the bill or in the regulations themselves. I think at the regulations level you could probably have that in as well. But it would probably be, the level of assurance, that you wanted it pointed out for both the public and those utilizing it as to where it gets placed.

Mr Galt: It's always a struggle to know what to have in the bill and what to have in regulation. Anyway, your point is well taken.

The Chair: Thank you, Ms Ryan. We appreciate GRCA making a presentation to this committee.

AGCARE

The Chair: I would ask our next delegation to come forward, AGCare. Welcome. We would ask you to give us your name for Hansard. Please proceed. We have 15 minutes including comments and questions.

Ms Mary Lou Garr: Thank you, Mr Chair. I'm not Fred Wagner. My name is Mary Lou Garr. Fred had a bit of a medical problem this morning and I'm taking his spot. I am first vice-chair of AGCare. We're happy to have this opportunity to comment on Bill 81. I think you have in front of you our very short brief.

Just to give you a bit of background, AGCare is a coalition of field crop and horticultural producers. We represent 40,000 producers in that 16-member coalition. We've been around for many years basically trying to provide science-based information from the farm perspective to the public to contribute to a greater understanding of what we do on the farm and how technology contributes to the environmentally sustainable food supply that people have.

We were part of the development of several initiatives; the environmental farm plan, for one, which is a form of environmental assessment on the farm. I'm sure you've had background information about that. On my farm I look at 200 points at which my farm can impact the environment. I think that's a pretty good self-analysis of my operation.

We also were part of the Ontario pesticide education program, under which every person applying pesticides now is certified to do so through taking a course and, most recently, an obsolete pesticide collections program.

We are one of the four steering committee members of OFEC and have been working on nutrient management since 1997. We've been part of all the consultations that have taken place and we are happy to be part of this one. We hope that these consultations continue, because it's absolutely crucial that as this is developed into final regulations you do consult with those us who are the primary stakeholders in this.

From our perspective, though, I can only address crop issues. Some of our members are livestock producers, but our representation is just on crop issues, so in that sense we are the consumers of these nutrients. We look at it from our use of manure. We provide a market for many livestock operators to use the manure in our cash crop operations, and we also put a lot of commercial fertilizer on. As users of commercial fertilizer and manure, we will be drawn into this nutrient management planning, probably in the later stages of the phase-in period, although some of our cash crop producers will be drawn in early because they do use manure from, for example, hog operations. So when the hog operation does a nutrient management plan and accounts for the final use of that manure, if I'm taking it on my cash crop, I will be doing a nutrient management plan as well to explain where I use that so that you can follow it through.

We believe that nutrient management planning is important and environmentally sound agricultural production. We use fertilizer, we use manure, and we are also the users of much of the biosolids that are produced in this province, as cash crop producers. That includes sewage sludge and things such as paper waste. We believe that there need to be clear and consistent standards throughout Ontario, and we are supportive of that.

We also believe it's extremely important that this provincial regulation take precedence over municipal bylaws. I know you've heard this before from other groups, but we believe that we need to have consistency across this province. I'll give you one example. I farm in the municipality of Grimsby. Grimsby has a no-firearms-discharge bylaw, which applies across the board in Grimsby; however, we are right on the boundary of another municipality which has a hunting season. So when the hunting season comes, the deer of course all come over on our side of the boundary and we end up with all the crop damage. It's just a tiny example of what can happen when one municipality has a bylaw different from another. We as farmers are all marketing into the same system, so economically, in terms of fairness, we would like to see the provincial legislation take precedence over individual municipal bylaws.

It's essential, however, that all nutrient generators are treated equitably under the act with the same levels of stewardship expected of municipal sewage treatment plants and other industry generators of land-applied materials.

As you develop the regulations and guidelines, we hope that you will develop them looking at the impact they're going to have on Ontario's farm community and hope that you will continue to do what you're doing here, which is consult. If you go back in history, with all the other acts that have been developed—many of the acts developed for agriculture—and I'll use the grower pesticide safety act. That was developed in full collaboration with OMAFRA and with the Ministry of the Environment. In fact, I still sit on committees for grower pesticide safety that include Ministry of the Environment and OMAFRA people and farmers. The reason that was

successful was because you did have farmers there right from the very beginning. When it was time for every farmer in Ontario to be certified to apply pesticides, there was buy-in for that because the farm community had been part of developing it. Then we moved on to pesticide recycling, and you have full co-operation from the farm community on that, and now we have obsolete pesticide collections.

So we have a past history in agriculture of working with government agencies which I see this is the start of. We would hope that as you develop the regulations you might do the same. I know very often regulations are developed by government separate from the stakeholders, but I think it's important in this case, where it's so crucial that agriculture buy into this process, that you take the time to bring agriculture along with you and to allow us to have input as you develop these regulations.

We hope that it will be based on science-based requirements, because there are significant research gaps. I can't address specifics and I hope you don't ask me to. But I know our horticultural members on AGCare are very concerned about whether or not there is enough research into nutrient levels that are needed for crops, as opposed to just looking at a cut-off point: you can only use so much nitrogen on a crop. I hear the example used of cabbage. Apparently, with cabbage you will see results from added nitrogen no matter how much you put on, so someone at some point is going to say, "Here's your cut-off point as a cabbage producer. You cannot use over this amount of nitrogen." There has to be more research to determine where that cut-off point is, because what you're saying to that grower is, "You'll have to accept less economic return by having smaller cabbages and using less nitrogen."

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That's one example. The horticultural people feel, and you may have already heard from the fruit and vegetable growers, that there is a need for much more research. We would hope that would be done.

One key area we believe still needs to be addressed, or at least formalized, is some way of financially assisting farmers to meet the needs of this legislation. Because the benefits of this are going to be shared by broader society, at AGCare we believe that some of the costs of this should be shared as well with that broader society. I know you've heard from other groups about the economics in the farm community and I know you're well aware of it. It's just a difficult time for farmers to be putting out major amounts of money to implement some of these without any return. Building a manure storage is a very good thing to do and we all know it's a very good thing to do, but if it costs \$80,000 and it doesn't return one penny to my operation, then I really have to find a way to do that. We think if broader society believes this is a good thing to do, there should be some commitment from broader society to share in those costs.

The final point is that the legislation as it's written now does not identify a lead ministry to carry this act forward. We believe that it should be the Ministry of

Agriculture, Food and Rural Affairs. We believe, and I'm sure you've heard from others, that there should be a dedicated unit within OMAFRA which includes the Ministry of the Environment staff so that dedicated unit could look at farming and the peculiarities around farming, and could look at the sites. I farm in Niagara, so my situation is very different from someone who farms in Lambton county and is surrounded by nothing but farms. We believe that a unit within OMAFRA that certainly has the Ministry of the Environment there would be the best way to handle this legislation. These local advisory committees are pretty crucial as well, so that I as a farmer know that whoever is looking at the situation understands agriculture in my area.

That Ministry of the Environment person still has the ability in the end to lay a charge. If a farmer is doing something that contravenes the Ontario Water Resources Act or the Fisheries Act, the Ministry of the Environment person still has the ability to lay a charge. Many of the cases that will be surfacing as problems are not going to be cases that need charges. They're going to be cases of management: the cash crop farmer who is spreading manure beside his neighbour who is having a barbecue that night in the backyard, that sort of thing. So having the Ministry of Agriculture as lead is absolutely crucial.

Thank you very much for this opportunity. I'm prepared to answer questions.

The Chair: We have two minutes for each party for questions. I would now begin with the NDP.

Mr Tony Martin (Sault Ste Marie): Good morning and thanks for coming. The one issue you raised that I think at the end of the day is probably going to be one of the more crucial elements in this is the question of who pays for the implementation of the regulations. That's always the kicker at the end. You can put as many regulations in place as you want, but if you don't have the money to actually help those people who are being asked to work with you, then it becomes very, very difficult.

There's no doubt that there is money in the food industry. It's just not working its way back into the pockets of the farmers in the way that at one time it did and, as I think some of us suggest, it should. When you say that the cost should be borne by more than just the farmer, could you elaborate on that a bit and maybe talk to me a bit about it? Should it be something we put on the tax base or should it be something that is levied somehow—and I don't know how you do it; I don't have any answers to that—to others up the chain that in fact are making some pretty good money in the food industry?

Ms Garr: I think it should be the broader tax base, because that is the broader society that is benefiting from it, and those are the other players in your industry as well, the taxpayers of Ontario. There are some good programs—and I heard healthy futures mentioned before. The way healthy futures works is that it's a government-funded program, but then there's an advisory committee, on which I happen to sit, which consists of agricultural and industry representatives. We're the people who

advise the minister on the applications that come in and whether or not they should be funded. I think something like that would work. There's \$90 million in that program. I sometimes think even if you took that chunk of money and used it now for this, it could go a long way toward helping agriculture meet what they need to in this act.

But I think it should be that broader tax base. I don't know where you would levy it. We do not have a society that's willing to pay any more for food than they already do. I've accepted that as an agriculture producer. People are accustomed to an economical supply of food and that's what they expect, and we've been doing that for them for a very long time. So I don't think you're going to be able to recover it from the food industry specifically. I think the water resources of Ontario have a broad-based impact on everyone in this province, and I think that's where the funding should come from.

Ms Marilyn Mushinski (Scarborough Centre): I really appreciate your submission this morning. I'm not quite sure I'll ever look at cabbage in quite the same way. Do you think that government should subsidize major industries like the big, new, high-tech farm factories that are emerging as the new farming techniques in Ontario? Do you think we should be subsidizing them for being environmentally responsible?

Ms Garr: By "subsidizing," you're saying should we assist them with the cost of meeting the requirements of this act?

Ms Mushinski: My sense is that when you speak of responsibility for implementation costs, that's what you're referring to.

Ms Garr: I'm not sure in the end how decisions will be made. It might be something like the way healthy futures is administered, where you have decision-making by a committee, for example. I believe a farm is a farm. It can be a large farm or it can be a farm like ours, which is a family farm with our son farming now with my husband. They're both farms. But I think the very large operation that's spending several million dollars, many million dollars, on their operation, new, probably can afford to put in the manure management that's required for that.

What you're going to run into as time goes on is our farm, the family farm, that doesn't have the natural resources to meet these requirements. We've been farming in an environmentally responsible manner, but depending on what rules come out under these regulations, we may be in contravention of some of that and may be required to upgrade. It's going to be very difficult to do. If a larger operation needs assistance, then it should be just as eligible for assistance as a smaller operation.

Ms Mushinski: But you don't believe that it's sort of one size fits all; you think it should be subject to ability to pay?

Ms Garr: I'm not sure if that's what I've said.

Ms Mushinski: All right. I think I get your meaning.

Ms Garr: But I do think that most of the difficulty is going to be with the smaller operations. I think if you're

building a brand new operation, you do factor all the costs of the rules you have to meet with that operation into the cost of building that operation.

Mr Galt: I have just a quick couple of comments in connection with the phasing-in, just a couple of things that will come immediately, such as winter application and how that will occur around sensitive areas. You're concerned about consultations similar to pesticides. Yes, we're looking at it very similarly and have drawn some comparisons with the applications, particularly commercial applications. So consultations will be very extensive. I don't think there's any question there. As a matter of fact, we've consulted so much that I think people are tired of us consulting—"Get on with the bill"—and that's what we're doing right now.

1130

Your comment about cabbage is interesting. The concern we have is nitrogen getting into groundwater and surface water; how to get enough nitrogen there for the cabbage and at the same time not go through to the water. Anyway, thank you very much for your comments and your presentation.

Ms Garr: When I say "consultation," we do appreciate all the consultation you've done to date. I think more crucial consultation will come in developing the regulations, because those are the rules I'm going to have to follow on the farm. If that regulation says, "You cannot apply after October 10," and we have a really wet fall and my neighbour with a chicken barn whose manure I always take every year and whose nutrient management I will take—I don't have the storage to put it in. If I want to apply on October 12, I need that flexibility. I think the regulations can be developed with that flexibility.

Mr Galt: Absolutely.

The Chair: I will go to the Liberal Party.

Mr Peters: I wanted to make some comments on some earlier comments about, should government be there? I agree with you; I think government should be there. We've seen what's happened in the tobacco industry recently, where the government came through to help the tobacco industry with its conversion. Municipalities have been there receiving financial support to make those environmental improvements. Certainly we'll be supportive of that.

Ms Mushinski: Are you talking about the federal government?

Mr Peters: I'm not averse to going after the feds—maybe a Liberal.

You raised an interesting point on technical knowledge and research. I asked a question of an earlier presenter regarding biosolids, and I've had a response to that. You're talking the same way. Who should take the lead to try and keep it, from the public's perspective, non-partisan? It's not one specific group. To have this technical knowledge and to do the research, who should be taking the lead within that area?

Ms Garr: You already have a committee in Ontario called the Biosolids Utilization Committee. I'm not totally familiar with it but I know—

Mr Peters: I'm not talking biosolids. You raised in your presentation the need for research and having technical knowledge. I'm not speaking biosolids, but from your perspective and to understand things, who should be taking that lead?

Ms Garr: I think when it's agronomic issues, it should be OMAFRA that takes that lead.

If I can go back for a second to your comment about the federal government and that you're not averse to going after them, do you know what I as a farmer would love to see happen in this world? I would love to see some federal-provincial agreements. On this one, wouldn't this be a good way to do it? We have lakes that are a federal responsibility; we have conservation authorities that are Ontario's. I would like to see two Ministers of Agriculture pick up the phone and talk to one another and say, "Can we work together on this? Can we develop federal-provincial funding programs for farmers in Ontario?"

We are trying to develop an environmental farm plan country-wide, and it's becoming a bit of a quagmire because we have this division. But do you know what? As a farmer I don't see that division. I have a federal government and I have a provincial government, and I think the Minister of Agriculture in both of them should be concerned about me as a farmer, whatever party they belong to. I think when you're talking funding and money, we could do great things if we looked at both sources of money, but it's a matter of finding a way to co-operate and do that.

There are examples of fed-prov agreements. Maybe this is one that could work.

The Chair: On that note, I appreciate your submission on behalf of AGCare. Thank you.

HALDIMAND NORFOLK PORK PRODUCERS

The Chair: We now call forward the Haldimand Norfolk Pork Producers. I see my neighbour in the audience. Gentlemen, we would ask you for the purposes of Hansard to identify yourselves, and then we have 15 minutes and hopefully a minute or two for comments or questions from the parties represented.

Mr Ed Van Den Elsen: My name is Ed Van Den Elsen. I'm the president of the Haldimand Norfolk Pork Producers. Beside me is Bill Heeg, a fellow producer.

To begin with, I thank you for allowing us the opportunity to speak to these consultations. I'd like to start off by saying that we are very much in favour of the legislation because we realize we need a really clear set of rules to cover the entire problem. There's too much discrepancy at this time between one county or area and the other.

There are three points that I was just going to elaborate on, the first one being conflict resolution through community environmental response teams, or CERTs; second, being left at a competitive disadvantage; and third, protection from harassment.

Point 1, conflict resolution through community environmental response teams. When contentious issues arise, Ontario Pork recommends the use of community environmental response teams. Teams would be composed of diversified memberships reflective of the local area, which include livestock producers and municipal councillors designed to respond immediately to concerns. These CERTs would assess the situation and make recommendations regarding nutrient management within a 48-hour time frame. Members of CERTs would be required to complete an initial training program in mediation as well as receive a brief technical overview on the science of nutrient management.

Establishment through the Ministry of Agriculture, Food and Rural Affairs and the Ministry of the Environment: a CERT member acts in the capacity of mediator or as liaison between farmers and township, building relationships and facilitating open and transparent resolutions of issues. CERTs have a record of consistently developing effective and successful resolutions to conflicts in areas where nutrient management plans are already in place, basically in Huron and Perth counties.

Point 2, being left at a competitive disadvantage. The previous speaker brought up most of the concerns that I'm going to elaborate on too. We hope that today's government recognizes the benefit of the industry to the province and the local economy. It wouldn't be fair to have the producers carry the entire cost of the environmental industry's investments. If neighbouring provinces and US states had more lax environmental rules, it would put us with our costs of production being higher than theirs because there is no way of picking up the extra cost through the marketplace. We're all based on prices coming out of Chicago. We would hope that today's government recognizes that the benefits of these investments are for all society and would design an appropriate program to partner with us to move the agriculture industry forward.

Point 3, protection from harassment. When the nutrient management plan is submitted, we're just a little bit leery about it being made a public document viewed by everybody. It could be used as a tool for, let's say, rural residents who are non-farmers to harass with. If they view the document and see discretionary moves from the paper to what they're doing—let's say putting manure on a corn field instead of what they said they were putting it on, wheat stubble, for example—and having to bring out the Ministry of the Environment or a CERT team to investigate why this was done, it could make the right-to-farm legislation weaker or not have the same powers as it had before.

In conclusion, I just hope this brings to light some of the concerns felt by local farmers in this area. Again, I would like to thank you for the opportunity to address the consultation group here.

1140

The Chair: We have a couple of minutes for questions. We now commence with the PCs.

Mr Galt: You're concerned about harassment protection. Could you include MPPs in that grouping as well? We'd look forward to the same protection. I'm teasing, of course.

Your points are very well taken. You don't want the nutrient management plan made public in detail. Are you comfortable that it be known that there is a nutrient management plan, that it may have information to a certain level?

Mr Van Den Elsen: Yes. I think that's a fine line: where do you cut off who gets to view it and who doesn't? I think under normal circumstances it's a good thing to be a public document. But as I was saying, it could be used as a tool. I'm sure there are a lot of people out in the country who probably would prefer not to have the hog farmer beside them—maybe disappear. I think we all, probably at some time, when manure is being spread, know what it can be like.

Mr Galt: We may have to smell it for a few days, but we shouldn't have to smell it for 365 days.

Mr Van Den Elsen: No.

The Chair: Ms Mushinski?

Ms Mushinski: Yes, just really one question following up on Dr Galt's question regarding protection from harassment. I would take it from your comments that you would regard this particular legislation as providing among what would be the higher standards of nutrient management. The reason I say that is that you expressed some concern with neighbouring jurisdictions like the United States or other provinces.

My question really has to deal with how we ensure that in making sure you meet those highest standards, you're not going to face ruin because surrounding jurisdictions that have lower standards and can therefore charge lower prices end up actually punishing those who are required to provide nutrient management. Is that your main—

Mr Van Den Elsen: Yes, that's the point I'm trying to make.

Ms Mushinski: When you talk about conflict resolution, you would like to see some kind of perhaps cross-border agreement or at least—

Mr Van Den Elsen: Oh, no, sorry. I was meaning that more in a financial position than with harassment.

Ms Mushinski: OK, so it gets back to what the previous speaker was saying in terms of ensuring that government, either through tax incentives or some kind of federal-provincial agreement, can make sure that the farming community doesn't get stuck with the bill.

Mr Van Den Elsen: Yes, more or less. I know it's a touchy issue, who should be paying for it, and I'm not going to sit here and propose that I have the answers to that. But in the same breath, I don't know whether it would be fair to download the entire costs on increased manure storage. I know personally, when I set up, 210 days was the minimum storage capacity that was needed and it continues to be increased as time goes on.

When it's all said and done, a lot of the existing operations are going to have to have a cash layout to continue to farm under this legislation.

The Chair: Now to the Liberals.

Mr Peters: I want to go back to your first point of the CERT committees. These committees, in my opinion, are going to play a really important role, probably as important as the enforcement, having those people on the ground to try and resolve complaints before they have to go beyond. You talked about harassment, and I don't want to blame any one individual, but let's talk about rural non-farmers. You see quite a move to rural Ontario right now, or there has been. You talked about the importance of municipal politicians being on the CERT committees, the importance of the different producers and their respective organizations being there. What's your thought on having a rural non-farm person or persons on that committee? You talked about the importance of educating everybody and making sure they're well trained. But what do you think of having that rural non-farmer on that committee to maybe bring a different perspective?

Mr Van Den Elsen: I don't see anything wrong with that. It would work both ways. They may also be educated the other way on the different scenarios that will come up from different farms and that. I think diversification is the main thing that you want on this committee. I don't think you want it all municipal politicians or all farmers, because they're basically referees and are going to have to find common ground between the two parties.

Mr Martin: I don't think anybody disagrees that we need to meet higher standards and protect the environment and water and that kind of thing. I don't think anybody disagrees that we need to support the farming industry in our province. It's crucial to any economy that we'll have and also to our ability to feed ourselves. The question, though, at the end of the day is going to come down to in many ways how much this is going to cost and who is going to pay for it. You raise an interesting piece of that, and I can relate to it because I come from Sault Ste Marie, where our major industry right now, Algoma Steel, is in some difficulty.

It's a resource-based industry that is in difficulty at the moment, just as farming is. It's a question of, as we adjust to the new realities of trade and how business is done, can we survive? You mentioned the competitive nature of farming. If we as a government put an extra cost on you to meet some regulation that we put in place, it makes it difficult for you to compete. If the government comes in and helps out with that by providing a subsidy or whatever to the tax base, it may in fact attract countervailing action by another jurisdiction. In farming, is that a huge problem?

Earlier it was mentioned that the federal and provincial governments should get together perhaps and be helpful here, and I don't disagree. But in your experience and knowledge of your industry, and I don't pretend for a second to know it as well as you do, would that kind of support in trying to meet these regulations attract that kind of countervail duty from the US?

Mr Van Den Elsen: I don't know. Bill, would you know?

Mr Bill Heeg: It would be an infrastructure type of grant, first of all. It's not a direct subsidy for production. Those things have always been a little bit different than direct subsidies. So, yes, that is a touchy issue. We'd have to design it in such a way that it wouldn't be countervailable. I don't know. I can't really say at this point what would happen.

Mr Van Den Elsen: All I can add is that as hog farmers we don't want to go back to that again, where we're being countervailed. We've been there, done that and we don't want to do that again. I guess all that can be found out ahead of time, before that decision is made.

1150

Mr Heeg: If I might just make a comment about that, last year I had the opportunity to go to Quebec and we visited a few farms there. We visited a dairy farmer in particular. He had just finished building a new manure pit with solid concrete all the way around and a concrete floor as well, and 90% of it was paid for by the provincial government through some sort of grant scheme they had going. We left that farm thinking, "Wow, how can we compete with that?" Concrete is \$120 a cubic metre. You're talking a \$50,000, \$60,000, \$70,000 investment in that.

He had manure storage then for a year. If that's what we want, if we want all pork producers or cattle producers or whatever to have manure storage for a year so we can comply with this new act—I think most of us have—is it 240, Ed, right now?

Mr Van Den Elsen: I'm at 210.

Mr Heeg: You see what I mean? We have to make some major investments here. Some 90% of the pork in this province is produced by family farms, not corporations. How are we going to come up with that money all of a sudden when we're still in a global marketplace for our end product? So it is a concern.

Mr Martin: Do I have time for one more question?

The Chair: Certainly, Mr Martin.

Mr Martin: You're suggesting, then, that if you're going to be able to compete, and we can find a lot of the money to bring us up to the standards that we know we need if we're going to protect the public in terms of water, for example, the government should be kicking in a fair chunk of that and it should be done through some form of taxation?

Mr Heeg: The previous speaker talked about that as well, who should pay. All of society benefits from guaranteed clean water. I don't know how else you would do that fairly other than to have the general taxpayer, via the provincial government or in partnership with the feds, pay for something like this, yes.

The Chair: Mr Heeg and Mr Van Den Elsen, thank you for the delegation on behalf of the pork producers.

ANDREW WILSON

The Chair: From our agenda we have a final delegation this morning. Is Andrew Wilson present? On our

schedule, presentations from individuals have 10 minutes.

Mr Andrew Wilson: I would just like to thank you for giving me this opportunity to speak today. My name is Andrew Wilson. I live north of Milton. I'm a cow-calf producer. I have currently 70 cows and feed roughly 200 head of cattle a year.

A lot of the ideas that was going to present to this group have already been brought up. There are a few here that I would like to stress and go through.

The overall point about farmers being very aware of the environment and very conscientious is pretty much shown with how the environmental farm plan has been received in the farm community. I think farmers are willing to make changes and are adaptive. That's very important when we're looking at these issues.

Getting down into the nutrient management part, I guess as a whole I am fairly opposed to the idea of the Ministry of the Environment becoming involved in the enforcement of the act. Part of this comes from the fact that I'm part of an Ontario feeder finance committee. This is a feeder co-operative that has a loan guarantee program for cattle producers. One of the things we do is lend money to farmers. We send supervisors out to check that the cattle are on the farms and are being looked after properly. This program is in about its 10th year of operation in Ontario. When we first started sending supervisors out to look at the farms, to see what was going on, making those visits, the farmers weren't really too interested. It took them a while to get used to the idea of somebody coming and checking on the cattle. I think this is going to be a major problem when the Ministry of the Environment wants to go on these farms and enforce this act.

My total opinion is that if this doesn't work, we're into problems. If farmers aren't willing to accept this, then it's not going to work. There's got to be a two-way street and we've got to work together. I see that as being a major block for farmers, having the ministry. I think OMAFRA should be the lead and they should carry the enforcement side too.

I am very pleased to see that the bylaws will supersede any municipal bylaws. I think it's very important to give somebody in western Ontario the opportunity to do the same things that somebody in eastern Ontario can do. It gets away from municipal politicians being able to run on a "get rid of hogs" or "get rid of cattle" basis.

Another issue I'd like to see looked at is the animal units. That was an issue that was brought up 10, 15 years ago or maybe even before that, when we were doing the distances for creating these barns. It's all based on smell; it's nothing about nutrients and what each animal produces. I think the units have to be based on how much nutrient come out of that animal and what that can grow. It's got to be tied into how many cows it takes to grow an acre of corn, how many pigs it takes to grow an acre of corn and so on.

Another issue that has to be looked at, in the cow industry especially, is the fact that in the cow-calf

industry, probably right now the average is six months on pasture. To have 240 days of manure storage doesn't make sense. We're even going further than that. There are a lot of farmers who are pushing nine to 10 months on pasture. There's no sense to bringing in bylaws that say we need 240 days. Why?

I'd like to keep this short, so I'd just like to wrap it up by saying that I know no one has the right to pollute. I feel very strongly about that. Some things we've done on our farm are creating grass waterways, fencing all cattle out of streams and doing as much as we can afford at the time. We do little bits every year, but we don't have the cash flow or the ability to come in and make wide sweeping changes all at once. Another issue with that would be that we do need support.

I tend to think that if society has made a decision—and zero tolerance is a pretty harsh statement—if society puts this up on their list of what's important, then I think society should come along and be a stakeholder and pull along with the financial burden of these projects.

The Chair: We will now begin with the Liberals. Mr Peters, any questions or comments?

Mr Peters: Thanks, Andrew. I think it's important that we hear from individuals as well as organizations. Many times you can bring a different perspective to it.

It was interesting listening to you talk about the 240 days. I'm learning more about the Line Fences Act. I didn't know a lot about it, but I'm learning all about it and some of the problems that exist out there. I was touring an operation yesterday afternoon, and it was interesting. I looked at the cement pad that he had there for his manure and I said, "How much will that hold?" "Three months." So you start looking at those pads, adding so many more, and almost quadrupling it and covering a lot of ground.

It was interesting, when I talked to him, he was telling me that he actually sells 80% of the manure that his cows produce. There is a company that comes in and buys his manure and it is then transported someplace else. How common is that in your industry? For example, for him to have 240 days' or 365 days' storage just doesn't make any sense at all when either (a) they are out in pasture right now or (b) 80% of that manure is being sold. Are there a lot of people like him? What is your opinion? Do we put the boots to somebody like that and say, "We don't care what you do, you're going to have 240 or 365 days' storage"?

1200

Mr Wilson: Obviously, no, you don't put the boots to that person, because he's got a manure management plan. He's selling his manure, right? That's his plan. His plan is to sell it, and I guess what you want is to make sure that he has a good, sound contract for the manure. For me, no, I do not sell any manure, because it's too valuable to me. I use it to grow crops and I wouldn't even think of selling it. Does it happen around me? Yes, it does happen around me. You get poultry farms—we have quite a few in Halton county and we also have a couple of mushroom factories—and they will come in and

purchase or take away the manure for free or pay you for it. I'm not up on those types of contracts but I do know it occurs, and it occurs quite a bit in Halton county with poultry producers.

You've also got to look at the value of the manure to yourself. I don't think they're willing to pay me what I think it's worth.

The Chair: Mr Martin, any questions or comments?

Mr Martin: Just on the comment you made. I wanted to follow up on this being overseen by OMAFRA as opposed to the Ministry of the Environment. You don't think that perhaps OMAFRA—two points on that one—might have a conflict of interest in that they've got a whole lot of other things they need to do to try to support the farming industry and farmers, where the Ministry of the Environment—and the second point—not only concerns itself about farming but is concerned about the whole of the province and making sure that everybody's needs and concerns are dealt with.

Mr Wilson: OK. I'll answer this by just saying, take a look at meat inspection. OMAFRA does that. Tell me it's not in the farmer's best interests to have as many plants going as possible. And they've been doing this for I don't know how long. So they're going in and inspecting these plants and they have no problem; they will shut down plants and they have shut down plants.

So saying that OMAFRA wouldn't do as good a job as the Ministry of the Environment would do, I cannot see that. If you look at the things they've had to inspect in the past—and they've done a very good job when you take a look at meat inspection—and that's a self-interest for the farmer, because the more meat packers we have in Ontario, the more people we have to sell our cattle or hogs to. When you look at what they've done there, we've got some of the highest standards in the world. If they're able to run that and keep it separate from their other goal of helping farmers and becoming better farmers and are increasing production, I think they can do this without a problem.

If we're putting in the Ministry of the Environment for a perception reason so that the other side, maybe the environmentalists, feels that their side is getting dealt with, I think that's the wrong reason for doing it. We've got to get over that and we've got to deal with reality and not worry about perception. This is too important to get caught up in perception.

Mr Martin: The other point you raised in your presentation of course was the question of cost and who should bear that cost. I don't think anybody who's in the industry or close to it or reading the newspapers these days doesn't understand the pressure that's on farmers and the challenges out there with weather and everything else. But there is a part of the food industry that is still, regardless, making some pretty significant money: the distribution systems, the grocery store operations and those kinds of things.

Do you think they should bear any extra burden? If they're making the money, should they be in some way—and how do you do it—perhaps carrying some of

the cost of these new regulations if and when they come into effect?

Mr Wilson: It's just like a tax, then. You're talking about a tax, are you not?

Mr Martin: That's what I'm asking you.

Mr Wilson: That would be my opinion. At some point in time someone is going to pay for this, and whether we put it on the grocery store—where is that going to come from? That's just going to get passed down to the consumer, right? Because it doesn't matter. If you put a 10-cent thing on all the products they sell, they're just going to pass it on. Do you think that's going to come out of their profits?

The Chair: Thank you. I now go to the PCs.

Mrs Julia Munro (York North): You raised a couple of questions that are issues I would just like to come back to. The question of the possibility of the Ministry of the Environment enforcing the act: we heard earlier from one of the other submissions that perhaps there should be a dedicated unit within OMAFRA. I just wondered if, first of all, that is the kind of vision you have in making the suggestion here today.

Mr Wilson: Yes.

Mrs Munro: The second thing: I'd appreciate that from the point of view of the producer, but I wondered if you had any ideas about the concerns that others might have, particularly with regard to the non-agricultural components of nutrient management. I can appreciate the concern you have of the sensitivity of those people who are agricultural specialists who would come in and look at your operation from that standpoint. But my concern beyond that particular area is, what about the question of the bigger picture of nutrient management and those non-agricultural uses? Can you see an issue in terms of leaving it with OMAFRA?

Mr Wilson: When you say "non-agricultural uses," you're talking—

Mrs Munro: Components, I guess, is really better, not uses.

Mr Wilson: The components. Could you define that? You're talking about—

Mrs Munro: I'm thinking in terms of municipal septage and things like this, and when you use the example of meat inspectors, obviously we can all follow that logic. My concern is that when we start talking about municipal septage, we talk about biosolids and things that are non-agriculturally based, do we get into a problem then if we are speaking specifically about OMAFRA?

Mr Wilson: I think OMAFRA should be involved in anything that's spread on fields and used to grow a crop. I don't know where you would cut the line, from where the ministry is involved to—is it when that truck leaves the gate of the producers of the stock? But I feel that as soon as it starts being spread on agricultural land, it should be the Ministry of Agriculture, Food and Rural Affairs. When you get other people overlapping, I don't think that works. It's got to be one group and that's it and they handle everything. It's the Ministry of Agriculture, Food and Rural Affairs that should be handling this.

Mrs Munro: One other question. I thought your point about the need to re-examine the definitions of animal units was a particularly helpful suggestion and it comes back to the issue you mentioned a moment ago in the earlier question, when you gave the example of the use of, for instance, cattle; you know, for a farmer it's too valuable, whereas obviously with poultry there might be a different kind of management need there. I just wondered if you'd care to comment any further on where you'd like to see the animal unit definitions go.

Mr Wilson: The animal unit has to be tied into science. Right now it's based on odour. Well, what's that? There's no science behind it, and if you go and tell somebody what an animal unit is, you're not saying anything that means anything to them. I think it's got to be tied into, "OK, this animal produces so many nutrients. It'll grow so many acres of corn," or "You need 50 pigs to grow an acre of corn, so you need so many acres to cover that bar," and it's the same thing with cows. Every animal is fed differently and their manure is totally different. It's just night and day to the value of the manure that's being spread on the fields.

The Chair: Mr Wilson, thank you very much for coming before this committee.

We'll now take a break and hearings will commence at 1 o'clock.

Mr Galt: On a point of order, Mr Chair: If I may, I'd like to compliment you, if you're responsible for having this committee operate today under all these blue lights. I'm sure Mr Peters noticed that the blue and the red—

Mr Peters: No, the reds are in the background.

Mr Galt: The blues to reds are five to one.

The Chair: Do I unscrew those two red ones or put in some yellow or orange lights?

At 1 o'clock, the Haldimand Federation of Agriculture.

The committee recessed from 1212 to 1314.

HALDIMAND FEDERATION OF AGRICULTURE

The Chair: I wish to welcome everyone back from our break. It just reinforces the importance of food in the province of Ontario. I knew, sitting across from Mr Bingelman, that it was kind of a Mexican standoff: who's going to leave first? But it is a challenge for a small restaurant to get the orders out on time.

We wish to reconvene the agenda of this standing committee on justice and social policy for this afternoon. We're hearing delegations with respect to Bill 81.

Our first order of business is a deputation from the Haldimand Federation of Agriculture. I'll ask Mr Bingelman to present his name. There is a spelling error on the agenda. If you wish to proceed, we have 15 minutes, sir.

Mr Keith Bingelman: My name is Keith Bingelman. I'd like to thank the committee for coming to Haldimand. As long as I've been alive, I don't think we've ever had a committee of any government come into Haldimand, so we appreciate your taking the time.

On September 10 we had an executive meeting and we went over some of our comments on the Nutrient Management Act. We had a little bit of a tough time dealing with this. One thing we had was that there were no regulations that came down with it, so that made it tough to discuss.

While in general agreement with the intent of the act, we are concerned about the potential impact on many smaller farms. The following are same reservations that were highlighted at the meeting:

(1) Ongoing consultations with the farm community must be an integral part of the development of the standards.

(2) While agreeing with the need for standards and regulations, there also needs to be enough flexibility to make them practical, workable and enforceable. They must take into account a large number of variables, including among others classes of livestock; size of operation; soil type, geology and hydrogeology of the area; and cropping practices.

(3) Soil sampling and analysis should be done by an independent government agency.

(4) We strongly urge the lead ministry in administering the act be the Ministry of Agriculture, Food and Rural Affairs.

(5) We recommend that funding be made available for the training of farmers who must meet more stringent operational standards.

(6) We recommend that adequate funds be set aside to make grants and/or low-interest loans to existing farm operations in order for them to meet higher technical and environmental standards.

(7) We urge government to undertake and/or sponsor ongoing research in enhanced and more environment-friendly farm practices.

That is my submission.

The Chair: Thank you, Mr Bingelman, for that succinct presentation on behalf of the Haldimand federation. In keeping with protocol, we will have comments and questions from all three parties if they so desire. In rotation we would now begin with the NDP.

Mr Martin: I appreciate your comment early on in your presentation about the lack of regulation present, because ultimately we all know that's what comes around to bite you eventually and to make this bill useful or not. How important do you and your group think it is that we see regulation as quickly as possible, and do you think we should have the regulation on the table before we actually pass the bill?

Mr Bingelman: I think you absolutely should have regulations on the table before you pass the bill. The farmers need to know what guidelines they're going to use, whether they're going to be building or doing construction and what it's going to cost them, so they can make comments. It's kind of unfair. I read over the bill last night, and it is really unfair to the farmers in this community that we don't know what is coming down. We know there are rules, but how bad or how tough are

they? We would like to have the rules so we can discuss with each other and make our plans for the future.

It's kind of like you going out and telling your architect to build you a new house. He says, "Fine. Give me a blank cheque and I'll build you a new house." I could go and build you a new house for \$250,000 but you might only want a house that's \$150,000 in value. We need something to go along with so we can guide ourselves. It's important to have the standards there.

1320

Mr Martin: The other point you make, which was made this morning in the presentations that I heard, was the concern that's out there with regard to the cost to farmers of the implementation of these rules and regulations. I don't think anybody disagrees that there's some enhancement or toughening up of guidelines and regulations that's required if we're going to have a sustainable environment and industry. But if we're going to move to a place where we're all comfortable and confident that in fact we have some protection, it's going to be expensive; I don't think anybody is fooling themselves to think that it's not. Where do you think that money should come from to cover the cost of that?

Mr Bingelman: What do you mean, where should it come from?

Mr Martin: Should it be the farmer, should it be the industry as a whole that distributes food and sells it or should it come from the tax base?

Mr Bingelman: The farmers would have no problem paying for this, but we have one problem: we don't get enough back to us for our products. How can we go out and spend \$100,000 on a new system when we're only making enough money to put food on the table? It makes it a really tough struggle.

I've got one farmer two miles away from me who has stray voltage coming into his barn. He has lost 10 head of cattle in the last year. I know his manure system is not up to par. He's had to go out and replace those 10 animals. Those 10 animals that are dead do not produce any manure and they also do not produce any income for him. He has had to take money that he could use to build this manure system or holding tank or whatever, but he now has to spend it to buy animals so he can generate income. Liabilities are coming from everywhere. Nobody wants to take any responsibility for this, but he is responsible for everything.

We would be more than glad, and farmers have demonstrated this time and time again, to pay for our environmental plans if we've got the money. If the money is coming to us from the products that we can sell and we can make a living out of that, fine, we can update. But when we don't have the money, how can we update?

The Chair: I'll go to the PCs.

Mr Galt: Thank you for your presentation. Just a couple of comments. You mentioned a concern about the small farm and when these regulations might start. The general intent is that the small farm is going to be five years down the road; the new ones are going to be very, very early.

This concern with the regulation is always there with every bill I've ever been involved in. One of the problems we have is that until the bill is passed, you don't have the authority to make the regulation. It's sort of the cart before the horse or whichever. There's no question that the consultation we've been doing and part of this will help with the development of those regulations and it's going to be ongoing. It isn't going to suddenly stop because a bill is passed. There was a comparison a little earlier having to do with the Pesticides Act, and we've often drawn that comparison to the applicators there and the applicators here.

The one thing that's come up here three times this morning concerns the general feeling I'm getting—and there's no question, when I was parliamentary assistant for the environment—that people aren't exactly happy with the flexibility, you might say, of the Ministry of the Environment inspectors. The question I have is, if you have the same segregated unit operating in one of the ministries and it has agrologists or agricultural engineers, that type of person in there, does it matter whether it's in environment or agriculture, as long as agriculture is doing the approvals of the original plan?

Mr Bingelman: We've always dealt with the Ministry of Agriculture. The plans have always come down to—we have somebody to relate back and forth with, to comment. The reaction of the Ministry of Agriculture was that they generally worked with the farmers, not to get them out of a mess that they could have prevented; they try to prevent it before it got to this problem. This is the reason why I would like to see this in the Ministry of Agriculture. We want to prevent this from getting to the Ministry of the Environment.

Mr Galt: Certainly the bill is all about prevention.

Mr Bingelman: The farmers are more than willing to work along with it but there are some issues here. This is kind of private territory and we would sort of like to keep it that way. It makes it tough. But I would like to see it come from the Ministry of Agriculture because they have usually had more liaison and it has been more of a preventive course rather than coming in and fining farmers and stuff.

One issue I can deal with: in Niagara we had a lot of chicken farmers and at one time, when we had agriculture representatives, the representative realized that the soil down there was being overlaid with the manure. He went to the farmers and told them that this was happening and he arranged with other farmers so that manure could go from one farm to another farm. This did not come from the Ministry of the Environment. It came from the Ministry of Agriculture and it came from our representative. This is the type of thing that we haven't got any more because the Ministry of Agriculture has been stripped. We haven't got anybody to go and talk to with any expertise, local.

Mr Peters: I just appreciate hearing that last point about not having anyone to go and talk to. I don't think you as a farmer can totally rely on technology. You do need that person to talk to. It's pretty obvious with this

piece of legislation in front of us here that you are going to need people to talk to, and it's going to be of utmost importance that those resources are put in place to make sure you do have somebody to go to.

Your point number 3 on "soil sampling and analysis," "an independent government agency": could you elaborate on what you mean by an independent government agency? Are you looking for another ministry to deal with this or is this an independent agency within OMAFRA that you're advocating?

Mr Bingelman: It's more or less in with OMAFRA that we're kind of indicating. There are independent labs out there. It makes it tough—I should get a little more clarification on this. It makes it tough on us to say that when we have labs coming in with different—who is qualified? I think what we're after is the qualifications. When I went to my agriculture representative, because I had done some soil testing here a while ago, he said, "This is who I recommend you send it to." It was an independent lab, but, "This is who we recommend," and that's probably what we're after here, recommendations of quality.

Mr Peters: I guess every hearing date we're going to hear some common themes. One of them today has been about ongoing research. You've raised it and it's been raised in a couple of other points and I think that relates back to your sampling issue.

My next question: I think important players, once this legislation and the regulations are put in place, are going to be the community committees, which are going to potentially intervene in conflicts. Who do you think should make up these committees? Should it just be politicians and producers, and perhaps some non-farm rural individuals on that committee as well?

1330

Mr Bingelman: That's getting into kind of a wide territory. We hadn't really looked into that. When we had our municipal elections, we were looking at an advisory committee here. I imagine we'll probably have some politicians on it.

Mr Peters: Do you think it would be good to have non-farm rural people on this committee, or would that cause a problem?

Mr Bingelman: Are you—

Mr Peters: I'm just thinking out loud.

Mr Bingelman: This advisory committee you're thinking of, where will they come into play?

Mr Peters: If there's a conflict that exists and a complaint arrives on somebody's doorstep, this committee is going to go out and try and act as mediators.

Mr Bingelman: Most of the groups that have been around now that are in this community have been strictly farmers. There may be the odd politician on it, but I think just strictly farmers themselves. If there happens to be a conflict, the person who is beside him is probably not going to be satisfied with our answer; it doesn't matter who you put on to it, even if you bring in people from the Ministry of the Environment. So I think you're going to have to be fair here. You have to watch for where

harassment comes, who is going to side in with what. Are we trying to farm or are we—

The Chair: Mr Peters, any more comments? OK.

Mr Bingelman, thank you for that presentation on behalf of the Haldimand Federation of Agriculture.

NORFOLK FEDERATION OF AGRICULTURE

The Chair: From our agenda, our next delegation is the Norfolk Federation of Agriculture, if you wish to approach the witness table. We have 15 minutes. We'll ask you to give us your names for the purposes of Hansard.

Mr Mike Strik: Mike Strik.

Mr Bauke Vogelzang: Bauke Vogelzang.

The Chair: Do you wish to proceed?

Mr Strik: Thank you. We're glad to have the opportunity to speak to the members here today with regard to the Nutrient Management Act. I would like to go over some statistics that I just read recently which deal with the amount of manure that's produced in the province. The statistics show that in 1998, there were 30.9 billion litres of manure produced, which is less than what was produced 10 years ago. We find that the amount produced by cattle and hogs declined significantly. We've had a small increase in poultry. When you add it all up, the amount of land that would be required to spread that manure in Ontario would amount to 3,000 litres or 700 gallons per acre. So that's not a whole lot when you look at it that way.

The problem is that things have intensified, where you have 20% of the farmers producing 67% of the manure produced. This is where the technological advances in agriculture have allowed farms to increase in size. But we have the other problem that it's also economically important to increase in size because of our declining returns.

I know the intent of the original bill included healthy water, to protect the water that we drink. This legislation right now just covers nutrients. Hopefully you will also consider some of the other pathogens and dangerous chemicals and even antibiotics that recent news reports have shown have been found in drinking water.

The problem that we see with the act right now, as has been mentioned, is the fact that the regulations are unknown at the present time. In Norfolk county, I would say the majority of the farmers have small-sized units. There might be the odd large unit, but on the whole it's a family-sized operation. We see the main concerns from this act as the regulations and the costs associated with it. It might put them at an economic disadvantage to the larger units that can spread the costs over a larger size operation.

I would like to point out that we have been proactive over the years with regard to the environment. We've had a healthy uptake on environmental farm plans. We also have been supportive of the nutrient management plans that the industry has promoted over the last number of

years when the province came to light with the intensified livestock operations and what to do with the manure.

I would like to go over some of the different parts in the Nutrient Management Act.

Again, it has been stated before that we would like to see the Ministry of Agriculture, Food and Rural Affairs be the lead. We feel that this ministry is a lot better to deal with farmers. They should know the problems and would be better equipped to provide solutions.

We would also like to see nutrient users other than farmers included. I'm thinking of golf courses and nurseries.

Also important is whether the government will study the economic impact that this legislation will have on agriculture.

In part II in the act, we would like to see nutrient management advisory committees and have OMAFRA inform the farmers of the standards and provide training for farmers, and also provide any financial assistance for incentives to upgrade their operations.

In part III, the enforcement system must have provisions for an appeal process.

In part IV, with regard to inspections and orders by provincial officers, it should be a provincial agency so it will be consistent across the province. Also, we want to make sure that these officers are aware of the biosecurity protocol. They need to be aware of that.

Part V of the act: again, we need a good appeal process.

Part VI, the enforcement: penalties should be levied but, again, we need an appeal process.

Part VII, delegating power: we are a bit concerned with these people having too much power. Also, we don't like to see fees being included for farmers to meet the standards. We do like the provincial aspect of administration over municipal administration. This is where we have the same protocol across the province.

Part VIII: we'd like to see any judgment referred to the Normal Farm Practices Protection Board. I'd also like to see some statement in there with regard to soil testing, manure testing and the testing of biosolids.

That concludes our report.

1340

The Chair: We have a couple of minutes for questions and rotation. We'll start with the Liberal Party.

Mr Peters: Gentlemen, thank very much for your presentation. I think it's important. One point you make that I think we need to give serious consideration to is the other nutrient users out there. I don't think it's fair to just point the finger at one segment and allow another segment to spread nutrients and not deal with that. I think that's something we, as this committee winds down, need to deal with.

Norfolk county: a lot of sand, different soil. Is this something we need to take into account as we tour around the province? In Norfolk we're going to see the sand. We're going to be in Chatham on Wednesday and it's going to be different down there. In eastern Ontario

it's going to be different. From your perspective, dealing with Norfolk county, is our soil type something we need to take into consideration when it comes to spreading nutrients?

Mr Strik: Yes, it is, and that's why I said we'd like to see soil tests. The different soils do have different capacities, different requirements and also the problem of leaching. This is where the Ministry of Agriculture, as has been stated before, has been lacking in research. We don't know what those capacities are. This is important especially if we do increase in size. The problem hasn't been in Norfolk—like I said, we're small units—but if we start getting larger units there will be different parameters to consider. So this is where soil testing is quite important. As well, in Norfolk in the sands, water testing probably should be included in that too. We have a baseline water testing program that the federation has out. It will give you the conditions of the water now and, if there's an operation that's added to or expanded, we can tell if changes have been made to the water by these tests.

Mr Vogelzang: Yes. We believe that not only the soil type but also other aspects—agriculture is changing drastically. The evolution is actually going faster and faster all the time. New things are coming on stream. Management practices are changing at an ever-increasing pace. So it's not only the soil types that we're dealing with but also the management practices and agricultural production. Nutrient uptake in the future may rise to the point where we say that the guidelines we started out with aren't adequate for the crops we are growing. We're looking at 200 bushels of corn now, and in time that may be 240 and 250 bushels. Therefore the need for nutrient application is going to increase, and I think the act needs to be flexible to allow for adaptations in that regard.

Mr Martin: You mentioned the change in administrative practices as a concern, and in your opening presentation you talked about farm intensification as being a problem or at least contributing to some of what we're seeing by way of environmental challenges. Your statistics indicate that the actual quantity of manure produced is less but you're saying it's produced on fewer operations. Is that what you're saying? Would you like to expand on that a bit?

Mr Strik: Yes; 20% of the farmers account for 67% of the manure produced. So there are fewer larger farms but the size of the farms is large. That's not only animal units; they also have increased acreage. In our nutrient management plans that we've been dealing with, a lot of these operations also increased their land base to look after spreading the manure.

Mr Martin: With that, what are you suggesting re this piece of legislation?

Mr Strik: Some concerns we'll be looking at, if you set limits on gallons per acre, say, are the arrangements with other farmers, and that's going to involve transportation of the manure. Also, these farmers will have to have plans for their fields. They have to have their soil

tested so they can determine the amount of manure that's applied to their fields.

Mr Martin: How much do you think this move to farm intensification and new management practices is the problem as opposed to anything else?

Mr Vogelzang: The implementation of the act? How much of a problem that will be?

Mr Martin: We're here because we have a problem out there with the management of waste and the impact it's having on water. How much of that is this issue of farm intensification as opposed to other things?

Mr Vogelzang: It's interesting that you phrase it that way, because we feel we are actually proactive, that we haven't got serious problems yet. Therefore the timing of the act coming on stream and eventually being proclaimed, hopefully, we feel is perfect. We feel we are beating the problems. We're of European descent and we know they have problems there that they're trying to fix now. Intensification was a big problem there. The timing to enact this legislation we feel is actually perfect because there is a tendency toward intensification, but we can't wait too long.

1350

The Chair: We'll go to the PCs.

Mr Dunlop: Thank you, gentlemen, for coming today to represent the Norfolk Federation of Agriculture. I take it that you agree in principle that this legislation, as a government bill, is overdue and you agree in principle with it.

Mr Vogelzang: Well, we feel it's due.

Mr Dunlop: You had a number of comments that were like amendments to each section when you gave your presentation, so I take it that you agree in principle with the bill.

Mr Strik: Yes, that it will be province-wide over the municipal bylaws, where you could have neighbours in another municipality with different rules to follow. That's where we see it as being positive.

Mr Dunlop: Second, and it's a very quick question: are you happy with the five-year implementation?

Mr Strik: Yes.

Mr Vogelzang: I think we are because, in order to do it right, you'll probably need to have that length of time, especially in view of what was mentioned before, that we need the flexibility, and things are changing so fast. We need a certain time span to do it right the first time and yet have enough flexibility after the fact so that it can be changed and adapted to future needs.

The Chair: Thank you, Mr Strik and Mr Vogelzang. We appreciate that submission from the Norfolk Federation of Agriculture.

From our agenda we have a cancellation. I'll just check on the Ontario Ginseng Growers Association. I understand they are unable to—

Mr Peter Grandoni: Sir, I'm the one who cancelled. I was under the impression that I had to have a prepared brief.

The Chair: No, not necessarily. If you did wish to make a presentation, by all means, sir.

Mr Grandoni: Do you have the time?

The Chair: Yes, we've had the time allocated here.

Mr Grandoni: I can wait until the end, if you'll let the other people present, if you have time in the end. I'm concerned about the double standard.

The Chair: If you want to do the presentation now, that would be great. We'll just get your name and then we'll have 15 minutes. This is on behalf of the Ginseng growers?

Mr Grandoni: We had a dairy farm and we were involved, being on the urban fringe, in the impact—

The Chair: We'll just have to back up for a minute here. I called forward the Ontario Ginseng Growers Association.

Mr Grandoni: Let them talk and I'll wait.

The Chair: OK, we had a bit of a mix-up. I understand the Ginseng growers had to cancel this afternoon.

ONTARIO PORK INDUSTRY COUNCIL

The Chair: Going down our agenda, I would now ask for the Ontario Pork Industry Council. For the purposes of Hansard, could you give us your names, and then we have 15 minutes. Please proceed.

Mr John Alderman: My name is John Alderman.

Mr Franklin Kains: My name is Franklin Kains.

Mr Alderman: I'd like to start with telling the committee who the Ontario Pork Industry Council is. The Ontario Pork Industry Council is a voluntary membership organization. Our members include veterinarians; meat processors; individual producers; producer organizations; researchers; transporters; suppliers of genetics, equipment, feed, feed ingredients, pharmaceuticals; and anybody who has anything to do with the pork industry in the province.

I'm a member of the OPIC board of directors and Frank is a project leader for our OPIC environmental committee.

Our members would like to congratulate the government for its introduction of the long-awaited nutrient management legislation. As members of society, we are encouraged that the proposed Nutrient Management Act is a part of the Ontario government's Operation Clean Water strategy. Environmental stewardship is the responsibility of all members and segments of society. Clean water and air should be everyone's goal. Our members have been and will continue to be proactive and leaders in environmental stewardship. However, agriculture alone cannot fix, nor does it cause, many of the environmental challenges our society faces today. There must be an overall strategy. We are pleased to see that this is part of that strategy.

The agriculture sector, and the pork industry in particular, has been the centre of public attention and concern in recent times. The concerns are real to those expressing them. Some are very valid, both from producers and from other responsible members of society. However, many are based on imagination, lack of knowledge of modern practices, mistrust and fear of change.

People, both producers and society, have no confidence or comfort that there are planning, rules and standards, monitoring, enforcement and responsibility to protect them and their environment. This legislation should restore confidence in all society. It may not satisfy everyone but it must restore confidence in the system.

I'd like to give you, before we get into our specifics, three reasons why I am interested in the environment and in this act. I operate with my wife a pork farm that overlooks Wildwood Lake, between St Marys and Stratford. When we started that farm, my 65-year-old neighbour thought I was huge. By today's standards I'm small. We have 100 sows farrow to finish; he used to have four in his day. Times change and operations get bigger.

I'm also responsible for the hog group at Cold Springs Farm in Thamesford, Ontario. We coordinate the production of about 3,000 pigs a week in our own facilities and through about 30 independent farm families in the province.

Here are the three reasons why I think this is important. Each day as I drive to work, within three kilometres of my place I have three farming operations that to me really reinforce the need for uniform, province-wide environmental standards. The first one is a new, 4,000-head hog finishing barn, just completed. Several neighbours have said to me recently, "How do they get to build those huge barns in this area?" With confidence I can say, "This is Oxford county. We have nutrient management legislation. In order to get a permit, the people had to have filed a nutrient management plan in order to get the permit and proceed."

As I look across the road, I see a 300-sow farrow to finish that is, in animal units, about two thirds of the size of the other one. It was built about five years ago, with no requirement for a nutrient management plan. The farmer doesn't own any other land; he doesn't rent any other land. All the manure is applied in that farm, but he doesn't have to have a nutrient management plan, and I guess it's OK.

The third is just a little farther down the road and it's a huge dairy operation—huge from my perspective. They milk about 250 cows. It was built through the period, most of it, from 10 years ago to five years ago. Again, a nutrient management plan wasn't required. Last summer, as I drove to work, every time the hay was off there was a coat of manure. Six times, manure was applied to the same field of alfalfa. As a farmer, I'm saying that seems like a lot of manure to me. As a pork producer, if I put it on once or twice, I'd have neighbours wondering what I was doing. It may be fine, but my point is that I don't think there's any requirement for the nutrient management plan to be followed.

So that's the old and the new. We need uniform standards that everyone accepts, both in agriculture and in society.

Frank, if you want to get into our specific points, and then we'll have time for a few questions.

1400

Mr Kains: In our written submission we had listed, I believe, 11 points. I'm only going to take seven of those and expound on them for the things we would like the committee to consider in their review of this act.

The first one would be participation in the development of the regulations. We look forward to what the Nutrient Management Act can do for us. Its promise is to regain the confidence of the public to the extent that we are managing in a responsible manner the nutrients that we produce. The key to implementing the act and gaining its acceptance will be the development of the regulations and the standards, which will follow the passing of the act itself. We would ask that this process be done with the input of the stakeholders such as us—in fact all stakeholders—so that the rules developed are both effective and fair and we can achieve the broadest acceptance for those who will be affected by them.

The second point that we would make would be an annual review of those regulations. Soil testing, to determine fertilizer requirements for crop production, has been done for many decades. However, nutrient management planning, the key element in this new act, goes well beyond soil testing to include many other inputs, such as the crops that were grown previously and the analysis of the manure. These are all put into the formula to develop the nutrient management plan. This is a relatively new exercise and it is still evolving as more information is gleaned from research. For this reason, we would like to see a provision in the act that an appointed panel of a cross-section of stakeholders review the regulations and standards annually. The panel review would be performed with the latest technology and scientific knowledge available as guides. The process must be as open and factual as possible and not subject to political and emotional influences.

Our third point would be an economic impact statement. This new act may require changes on many farms and municipalities—we're here talking about farms specifically—and in some cases, it's a considerable expense. Many farmers have built their operations to the standards of the day or even exceeded them. They will now find themselves facing large costs to make those changes necessary to be able to comply. We would ask that economic impact studies be conducted to help determine the types of programs or the amount of support that would be appropriate to encourage and assist in implementing the proposed controls.

Our fourth point would be the establishment of the local committees. We welcome this provision. These will give the public the opportunity to raise concerns they have related to nutrient management issues in their area, without having to make a formal complaint through the regulatory agency. We support the proposal of Ontario Pork, which I believe you would have heard last Wednesday, to broaden the role of the local advisory committees to include county environmental response teams. These teams would respond quickly—they were suggesting 48 hours—to a concern and make recommendations to

resolve the situation for non-enforcement issues. These teams are made up of peers from the farm community and representatives from the public drawn from municipal organizations. They have a great opportunity to resolve disputes, encourage compliance and diffuse concerns before they start to fester.

Our fifth point would be one of biosecurity. This biosecurity is a major issue on Ontario farms, specifically Ontario swine farms. Healthy pigs grow faster. They are more efficient. They take significantly less drugs and enjoy a better level of welfare. If disease should break, results can be devastating. We only have to think of the foot-and-mouth crisis in England this past spring—and, in fact, it continues as of this week—to appreciate how sensitive an issue this is among our swine farmers. We start with healthy stock and then institute biosecurity protocols to maintain that health level. As pig diseases can be brought into a barn by people, that protocol will include a requirement that visitors have been away from other pigs for a specified period of time. We would ask that the act specifically require that inspectors follow the biosecurity protocols of the farms they visit, unless there are exceptional circumstances which are listed in the act for inspections.

The establishment of classes would be our sixth point. We believe the Nutrient Management Act should apply to all farms, independent of size. Large farms have been the target of public concern. However, there can be no more justification for practices that can lead to pollution of waterways and groundwater on smaller farms than there is on larger farms. Our fear is that the public may not gain the full confidence that nutrients and agriculture are being handled responsibly if the exemptions for compliance are too broad. We believe that all farms, indeed all generators of nutrients and users of nutrients need to meet the same standards.

Our final point would be the act has a provision to supersede municipal bylaws. We strongly support section 60, that regulations in this act supersede those bylaws of the townships that address the same subject. Livestock farmers across Ontario have had to comply with municipal regulations that have varied widely. For the most part, these variations and requirements have not been science-based. With this new act, the standards for nutrient management will be consistent and at a high level across the province. We would ask that this intent of the act remain and that other acts such as the Municipal Act cannot be used to circumvent this intention.

In summary, then, seven points: that stakeholders be involved in the development of the regulations; that the regulations and standards be subject to an annual review; that economic impact studies be completed to determine the effect of the new standards; that county environmental response teams, or something similar, be established as a first response to a complaint; that biosecurity protocols be established for inspections; that the standards apply to all those who create or use nutrients; and that the Nutrient Management Act supersedes township bylaws so that the rules are consistent across the province.

Do you have anything to add, John? That is our submission. Thank you.

The Acting Chair (Ms Marilyn Mushinski): Thank you, Mr Alderman and Mr Kains. We probably have one minute left for questions, so Mr Martin, it's your turn. You've got one minute.

Mr Martin: Just briefly, obviously you understand the comprehensive nature of this and the need for it to be all-encompassing. Who should oversee it? There's some suggestion today, very strongly, by previous presenters, that it should be overseen by OMAFRA. But if you consider the comprehensive nature and the fact that it affects everybody, an argument might be made that the Ministry of the Environment might be the more appropriate group to do it.

Mr Kains: I'm going to let John address that. He has some good thoughts. Your thoughts on it.

Mr Alderman: Which particular ministry it is probably doesn't matter to us. The fact that the people in the ministry are trained and understand agriculture and have the proper background and so on, I don't see that it makes any difference. One of the points we've had in our submission is that in the act there isn't anyone that actually oversees it, and we need some direction, and I would agree with you that the act needs to come out and say that. In the end, we don't need, when there's a problem with our ministry—it needs clear direction. As producers, most people can live by the rules if they're fairly applied and if they're properly generated. I don't know whether that's answered your question.

Mr Martin: Yes, thank you very much.

The Acting Chair: Thank you, Mr Martin. Thank you, gentlemen.

Mr Peters: Do we not each get a question?

The Acting Chair: No, unfortunately. I specified at the beginning that you had one minute, and it was Mr Martin's turn.

HAMILTON-WENTWORTH PORK PRODUCERS' ASSOCIATION

The Acting Chair: The next delegation is Raymond Wilson for the Hamilton-Wentworth Pork Producers' Association. Good afternoon.

Mr Raymond Wilson: Good afternoon. My name is Raymond Wilson, and I am vice-president of the Hamilton-Wentworth Pork Producers' Association. I own and operate a small family farm with a farrow-to-finish swine operation with up to a maximum of 20 sows and a crop of 140 acres in cereals, corn, soybeans and hay.

The Hamilton-Wentworth Pork Producers' Association would like to show our support for the much-needed Nutrient Management Act. Difficulties arise, however, in trying to adopt a uniform policy for all producers. Every pork operation has its own uniqueness. We find that one size does not fit all nor does one style of production. Examples: some have farrowing only, some have farrow to finish, some have finishing only, some crop their land, some rent their land out; it's all different.

As well, the soil types of the rural areas of the new city of Hamilton range from heavy gumbo clays to loams to sand and gravel. There are deep soils in some areas, and there are other areas where there is only a couple of inches of soil on the top of the bedrock. All require different management practices.

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We submit the following concerns and recommendations for consideration by the justice and social policy committee:

First, the community environmental response teams: we strongly recommend the use of local county and regional environmental response teams. Local people are the best to assess problem situations as they are the most familiar with their local area. When mediation is necessary, the mediation officers must be properly trained—and I underline “must”—and have a well-grounded knowledge in agriculture for each locale.

Biosecurity: biosecurity is a major concern in our industry. It is recommended that all officers be properly trained in biosecurity measures and that they be fully aware of biosecurity procedures, such as wearing required attire, showering, disinfecting etc for each premise that they wish to enter.

Record-keeping: the record-keeping is not always done electronically. Some producers do not have computers and continue to use a manual system. It is therefore recommended that both paper and electronic records be acceptable.

Geophysical studies: the requirement for preparing geophysical studies to determine soil types and groundwater flow is redundant. We recommend using the soil maps available from the Ontario Ministry of Agriculture, Food and Rural Affairs and the water-flow maps available from all the conservation authorities.

Land use: as the public must be protected through the Nutrient Management Act, protection of agricultural lands is a must for it to work properly. We are concerned that the needless waste of agricultural land to grow houses is reducing the agricultural land available to accept nutrients. There is a need to protect existing agricultural land which, no doubt, will be needed in the future to accept nutrients.

Funding: our pork industry is a viable one driven by efficiency to keep our costs as low as possible, but it is not a supply management system. Changes necessary to comply with this act may be very costly to our producers. We urge that these costs be considered when finalizing legislation and/or funding be made available if necessary, such as grants, loans etc.

The pork industry in our area is primarily family farm operations. We live, work and play on our farms, and it is for our own good as well as the public good to protect our environment.

This concludes my submission, and I thank you for the opportunity to present it to this committee.

The Acting Chair: Thank you, Mr Wilson. We have perhaps three minutes for each party to ask questions, and we'll start with the government side.

Mr Galt: A couple of quick questions. First, thank you very much for your presentation. I don't have much argument with too much of it. When you talk about local people being on the advisory committee, response team, whatever, you're comfortable with all interest groups, including the ones that might not be from a farm background, that would be the full community, or do you think it should be limited?

Mr Wilson: I think it should be agriculturally based. We don't want to have to educate non-agricultural people when we go out to do an inspection or something like that if there was a call for it. If we have some non-farm person, we don't want to have to educate them before we go.

Mr Galt: I suppose a facetious comment: maybe that's our problem.

Mr Wilson: That's possible, yes.

Mr Galt: I'm a little surprised with your statement, it's under geophysical studies, and it ends up with, “and water-flow maps available from the conservation authorities.” I thought I was hearing a great criticism that we didn't understand our groundwater and our aquifers and where they flowed and that we needed a lot of study and that that was a big section out of our puzzle in this whole area. You're saying that we should use the maps. Maybe there are maps out there that we're not aware of.

Mr Wilson: All of the conservation authorities' boundaries are based on the watersheds.

Mr Galt: Surface water.

Mr Wilson: Yes. And I realize you're looking at underground water, sub-water, yes.

Mr Galt: But you're absolutely right with surface water.

Mr Wilson: Yes, surface water is no problem, but then that is where a lot of the nutrients are going to get in first, into the surface water.

Mr Galt: I guess maybe when I do reread this you say, “water-flow maps.” I was thinking about the next step when it comes to groundwater. Your statement's OK when I reread it.

Mrs Munro: I just wanted to come back to the issue that you raised at the very beginning about the uniform policy for all producers and kinds of differences that would come about because of the style of production. My question to you on that is, because you have indicated at the beginning that you are supportive of this direction, would you agree that there would be ways by which you could measure that would allow for that kind of flexibility, for individual operations to be measured in a way that was appropriate for them? Do you see that as a possibility?

Mr Wilson: You're meaning measured as to output?

Mrs Munro: In terms of nutrient management, yes.

Mr Wilson: As in output of manure? That's what your aiming at.

Mrs Munro: Yes.

Mr Wilson: There again, output of manure can mean a lot on efficiencies, too. As an example, one producer may need four sows to get 32 pigs, which is eight pigs

per sow. Maybe I can get 12 pigs per sow. So I only need three sows, where he needs four. Now, who's going to put out the most manure? Four sows or three sows? A lot depends on efficiency and whether you're big or small isn't really going to matter. It depends on the efficiency that you can get out of those pigs or out of anything, out of the cows. You know, if you can get more milk out of 40 cows than 47, you might as well milk 40; you're going to have less manure. So efficiencies I think are a big thing as well. We have to aim for more efficiencies in our livestock operations as well. I've never mentioned that; we didn't want to get this too wordy, but that's part of the deal, the big scheme of things: you have to look at efficiencies.

Mrs Munro: I appreciate your bringing that—

The Acting Chair: I'm sorry, Mrs Munro. We're running out of time.

Mr Peters: In the previous presentation we heard that in the year 2000, 4.6 million hogs were marketed in Ontario. You're talking efficiency, and I think there's a view out there by some individuals that, as we've seen the new intensive livestock operations starting up, there are more hogs out there. Is that true? Are we seeing more hogs or is it just a consolidation within an industry of some of the smaller operations looking for those efficiencies?

Mr Wilson: I think some are consolidating. The little guys are being squeezed out, you know, and being forced to quit—maybe not forced but just dropping off because they can't compete. The market now is a big question. We don't have as many of our depots as we used to have to take our pigs to to drop them off. The little fellows would go and drop off their pigs at a central depot and then they'd be shipped to the packing house. Now a lot of them are directly shipped right from the barn, and the producers have special contracts now with a certain packer, where before all the pigs were sold through the pork board; in other words, the pork board had to take ownership of them before they went on to a packer. So things have changed in that regard and that is some of the reason.

Mr Peters: Quickly, one only needs to pick up either a mainstream media publication or an agricultural publication and we're seeing legal battles springing up all over the province. Is this legislation the step in the direction that is going to help us help put an end—I wouldn't say put an end; everybody has their right to express their views, but is this a positive step forward that is going to help us avoid legal confrontations down the road?

Mr Wilson: No, I don't think it will. You're still going to have some legal confrontations. What happens if you cannot get your manure out because of weather conditions and something happens at the barn, you have a spill of some sort and it goes to the neighbour's property and something happens on the neighbour's property? What happens if you have a spill with the sprayer and the spray goes down the stream and goes on to the neighbour's property and spoils his lawn, spoils his grass? You're going to have a lawsuit. That can happen.

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I don't know. I think you're still going to have litigation; there's still going to be litigation. The whole crux of today's society is to litigate. If you can get in and pound somebody, why, go ahead and do it and try and get as much money out of him as you possibly can. I think that's the way society is going. I hate to say it. We're seeing more and more of that and the courts are getting fuller and fuller and fuller all the time with more litigation.

Mr Martin: Just one quick question. Early in your presentation you speak to the fact that one size doesn't fit all, and yet we've heard today so far that what we need is a regulatory regime that applies to everybody. Does your comment in any way challenge that?

Mr Wilson: Maybe what we should look at is the size of operations. One size will not fit all. There are some people who want a big, massive operation and others only want the family farm.

Mr Martin: But this regulatory regime that we're looking at putting in place, should it be different for the bigger operations than the smaller operations? Is that what you're saying?

Mr Wilson: To be fair, I don't see how it could be much different. You have to have similar policies for both. A little manure can cause as much damage as a lot of manure. Like, a woman can be a little bit pregnant and still be pregnant.

Mr Martin: So, then, what were you referring to in your comments that one size doesn't fit all? What were you telling us in that statement?

Mr Wilson: More so that every pork operation is unique in its own way, and like I say, size does not fit all. We heard the submission just before about the huge operation with the great number of sows, and then I've only got a maximum of 20 sows. Certainly, don't consider anything on income. If I have efficiencies, I can make money and survive on 20 sows, but maybe they have to have a big conglomerate and need the huge number of sows and want to work on a big conglomerate basis. This is why I say one size does not fit all.

Mr Martin: But you are telling us, though, that in terms of a regulatory regime, it should apply to everybody in the same way? Are you saying that?

Mr Wilson: I think it would have to. I really think it would have to, including hobby farms. I think that was mentioned earlier in the one before, on small farms and that.

The Acting Chair: Thank you, Mr Wilson.

PETER GRANDONI

The Acting Chair: The next presenter is Mr Peter Grandoni. Mr Grandoni, you have 10 minutes.

Mr Peter Grandoni: Members of the panel, we have had a dairy farm; at present we have beef. We are hard up against urban subdivisions, and as a result, in the last 30 years we have had some very serious impacts from subdivision storm sewer runoff through our farm, plus

raw, untreated sewage overflows on every tributary of the creek, which is Shriner's. It has four tributaries; the Beaver Dams has one. There are raw sewage overflows on all of them heading west to the Welland ship canal and then into Lake Ontario.

The reason I'm bringing this up is not that we farmers are against measures to avoid pollution and destruction of the ecology and the environment. If you have followed what has happened in southern Ontario as a result of urban development, you would understand this.

Right now, I understand we're talking about limiting the spreading of manure on recharge areas in Ontario, particularly in the sandy soils that recharge the water to the aquifer. Where I come from in Niagara Falls, the former tender fruit lands, Fonthill's sandy loams were a recharge for this one creek, which was a fish spawning, wooded, shaded creek. It has been entirely paved over with rooftops and blacktop. As a result, the base flow to the creek has diminished greatly. Also, when the watershed of this creek—I'm using this as an example so that you understand; I've been directly involved in it. Before, this watershed, which is approximately 2,500 acres, had dairy farms and most dairy farms had a vineyard. When we were kids, we watered the cows in the creek and we waded in it. Pike came up to spawn in the spring. We caught catfish in it. There were blue herons. There was everything in there. Now, as a result of urban storm sewer runoff and raw untreated sewage overflows—I understand it takes one inch of heavy rain to trigger them; they're automatic. Hopefully they're not stuck in place, open—the creek is almost dead. You have a few carp in it. The bottom of the creek, which had sandy-bottomed pools—we used to wade in them—is now black.

So I cannot see how we farmers can be—possibly we are to blame in some instances, but not completely. I'm saying that this is a double standard. If we want to have clean water, if we want to preserve the ecology, then we certainly must preserve the better agricultural lands. In our own case, we fought off in 1978 a housing unit subdivision up against the line fence of our farm, and I've never heard the end of it from the surrounding land speculators. I'm the black sheep.

Anyway, you have to look at the whole picture. As I stated, we're not against controlling manure runoff, the spreading of manure in the wintertime. In fact, we've controlled our manure as much as possible with a concrete containment area since 1971. Previous to that we had a loafing barn and nothing got out of that. I believe that you have to have a certain number of days storage, depending on the individual operation, as has been stated previously.

Furthermore, on the double standard, you have garbage dumps. I think the time has come for the province to ban any further new garbage dumps, to look at incineration. You've got the technology. They're doing it in Japan and Europe and some states in the States; either that or composting. Definitely recycle. You can do that at an incinerator. I understand that can be done.

You're placing garbage dumps in Niagara Falls. One was placed right on top of flowing springs, which was an old Hydro dump. They've put pipes around it. The leachate from there goes into their sewers, and these sewers have raw sewage overflows in them, which were put in with the permission of the Ministry of the Environment. I was at a meeting at city hall where one city councillor, who is now the chairman of the parks commission, said, "I put a motion on the floor that we put this out in the back through the farms," and I stood up. I said, "Mr Mayor, you stick it in your own backyard." The mayor hit the gavel and he said, "Another outburst like that and I'll close the meeting." Another time, on the Beaver Dams Creek, I questioned if they actually had raw sewage going in it—I saw the contractor putting the pipe down from Highway 20 to the creek—and he wouldn't answer me. He called up security. He said, "Call up security." I said, "Never mind, I'll walk out on my own." I did.

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I'm just pointing these things out. It's not just us farmers. If you're going to control pollution, if you're going to clean up Lake Ontario, you'd better stop the expansion of Toronto, because if storm sewer water can do this to a creek, what's it doing to Lake Ontario with all of Toronto and all your subdivisions? You're not going to clean that lake up, believe me. It's nothing but an oversized septic tank.

These garbage dumps are lined with plastic. In Niagara Falls, you have a dump right now. It was a quarry. They're still quarrying rock. It's lined with about five feet of loose—they call it clay. It's the overburden that they pile up, and then they line the dump five feet, compact it, then put plastic, heat seal it, and then dump garbage in it. I watched them one day. I stood at the fence. I trespassed, yes. I went up to the fence and I watched. I wish I had had my camera. They were piling garbage in there. The fellow on the compactor got on his call horn and said, "You're trespassing, buddy. Get out," so I did. I'm just saying, if it's so safe, why couldn't I watch him? And yet you're going to inspect us farmers without a search warrant, and I'm against that. If you come on my property, on my farm, you have a search warrant. If you want to get your SWAT squad, go ahead. It's not right to treat us farmers like a bunch of criminals, like you're going to use force to get into our farms. Then if we can't pay the fines, according to this, you're going to put a lien on the property to pay it on our tax bill, and if we can't, you seize the property.

When you put a limit on the number of livestock that a farmer can produce, you're putting a limit on his income; you're freezing it. Yet under this new market value speculative assessment, farm taxes and homeowners' taxes go up automatically.

I like the way the politicians put it. "We didn't have a raise this year on your taxes, but it's market value assessment. If the property next to you goes up in value, that means your property is worth more on a speculative assessment system." I'm saying, if you freeze our

incomes, freeze our taxes. You're not freezing the people who build these mansions out in the country and then complain about us.

The other point you'd better understand is on this 1,000-foot minimum distance.

The Acting Chair: You've got about one more minute, Mr Grandoni.

Mr Grandoni: OK. This is important. You circumscribe 1,000 feet around all the severances around a farm. Where is he going to spread his manure with 1,000 feet? And with the wind direction, who is going to get the smell?

I've got a lot more to say, but I've used up my time. I have here an example of contractors dumping on that Beaver Dams Creek. What is going to happen to the water quality in that? If you want it, you can have it. I've got a whole bunch of them. I'd like to put this in. They dump indiscriminately. The conservation authorities can't do anything. Their hands are tied. The other thing is, they have politicians who are pro-development on the board of directors so the staff can't do their job. We've had 28 years of it in Niagara Falls.

It's the same thing with the Ministry of the Environment. Nobody does anything. The contractors and the urbanites come out there and they block our field drainage because they want a level lot, and then we've got to worry about spreading manure, dust and noise. I don't like to do it spitefully. If I can avoid spreading manure, I'll do it. But there are some times when, according to the weather, you have to spread it if you want to get rid of your stockpile.

I presented a lot of negative points which I felt had to be said, the double standards. If we're going to control pollution, it's everybody's job, the municipalities' and the developers'. I can't understand why developers can be allowed, like on the Oak Ridges moraine, where they're going to pave it, blacktop it, roof it, and they can develop the upper reaches of a stream that was fish-spawning, fill it in and pipe it, and you're worried about us farmers putting cows to drink in a creek. Let's wake up and look at the whole picture.

The Acting Chair: Thank you, Mr Grandoni.

Mr Grandoni: I'm sorry if I've offended anyone, but it had to be said.

The Acting Chair: Thank you very much for your presentation, sir.

OXFORD COUNTY FEDERATION OF AGRICULTURE

The Acting Chair: The next presenter is Nancy Walther, president of the Oxford County Federation of Agriculture. You have 15 minutes for your presentation.

Ms Nancy Walther: Good afternoon. My name is Nancy Walther. The Oxford County Federation of Agriculture supports the concept of one nutrient management strategy for the province of Ontario. We also support the idea of local communities to aid in developing solutions to local problems. We support the position of the OFA;

that is, that this committee should be local farmers who understand local agricultural conditions.

However, we strongly believe there are areas of Bill 81 that must be reviewed, and I will briefly list those areas and then discuss them individually.

- (1) Who is covered by this act?
- (2) Biosecurity and entry by provincial officers.
- (3) Appeal to the director.
- (4) Permission of director being required.
- (5) Who will pay for these improvements?
- (6) Privacy of information.
- (7) Electronic filing of information.
- (8) Restriction of access to lands following application of prescribed nutrients.
- (9) Restriction of access of farm animals to water and watercourses.
- (10) Section 55, "Delegation of powers."
- (11) Exemption of personal liability for government employees.

You have in front of you a copy of part of my presentation. I know you haven't had the chance to read it, so I'll read part of it and then maybe if you want to discuss it at the end of five minutes, I'd be glad to discuss some points.

We strongly believe that the use of nutrients should be covered under Bill 81. Thousands of tonnes of nutrients are sold in the urban areas of this province and their users will not be licensed, nor will there be any trace of their use. Large corporations such as landscaping and home garden centres, grocery stores and big-box stores may purchase, process and distribute materials containing nutrients to those individuals who are not licensed, and yet those users will not be covered. If this committee truly believes in Bill 81 and that it will protect the environment, then all users of nutrients must be covered under this bill.

We believe the authority which may be given to provincial officers regarding entry must respect the need for biosecurity on animal farms and that this health precaution must be in the legislation. The outbreak of foot-and-mouth disease in the UK has heightened the need and concern for biosecurity measures here on Ontario farms. We also believe that the provincial officers must be able to show reasonable and probable cause before entering on this property. That is one of the main things that we discussed at our board of directors, that they must have cause before coming on and there must be notification.

Under subsection 31(8), we believe the director must respond to all requests for review, or the appeal process becomes redundant. By failing to do anything for seven days, the director confirms the order of the provincial officer, and that is a complete dereliction of the duty of the director. The director must respond in the affirmative or the negative.

Permission of the director being required: we question the continuity between subsection 29(4) "Compliance," and the need to get permission from the director in subsection 33(3).

Who will pay for these improvements? We as the members of society trust that all society will benefit from all the potential regulations of Bill 81 and therefore will provide the money to pay for the improvements, buildings, structures, courses and licences that will be necessary for the complete implementation of Bill 81. The vast majority of farmers have been excellent stewards of the land. We must be good stewards, as it will be our wells that are polluted first if we pollute our land. We are not currently in a large economic boom and we do not have the extra dollars necessary for the capital costs associated with this bill without government support. Many of the products we produce may be purchased across borders. Those farmers are not subject to the same environmental regulations, and therefore have a lower cost of production. Importing these products would compromise the environmental standards of the province of Ontario.

We believe the compulsory electronic filing of nutrient management plans or strategies is not necessary. Also, rural communities do not have the same accessibility to the Internet that our urban neighbours enjoy. If all farmers are required to complete nutrient management plans or strategies, those plans or strategies should be kept on the farm and the farmer would only provide such documentation when required to do so. We believe this for three reasons: privacy of information; to minimize the bureaucracy necessary to monitor 50,000 plans; and the ability of older farmers and smaller farms to file electronically.

We believe that nutrient management plans or strategies should be kept as simple as possible, requiring only essential information, and that certified crop advisors should be designated as preparers of nutrient management plans or strategies. They already have the necessary skills and practical knowledge along with many years of working with nutrients and farmers, as well as having the historical data from many farms on file.

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Restrictions of access to lands following the application of prescribed nutrients: geophysical studies must be prepared by qualified persons, and the cost of those studies should be assumed by society as they will be a benefit to society regardless of the future uses of the land.

Restriction of access of farm animals to water and watercourses, section 6(b): if prescribed nutrients are safe to be applied to the land, why would there be any necessity to keep animals or persons from entering that land?

Section 55, "delegation of powers," and section 6(d): there must have been great debate concerning cattle around water and watercourses. We believe that unless this government is prepared to assume the cost necessary to permanently keeping all livestock, including wildlife, out of our streams, this issue will be very difficult to enforce. This one regulation would in itself force many cow/calf operators out of business. Many of those operators use land that is around water and watercourses.

I'll just deviate for one second. In Blanford-Blenheim alone we have the most bridges in I think all of Ontario.

Having the bridges, we also have the most waterways. Also, Blanford-Blenheim in Oxford county is going to be one of the largest hit with this impact if we have to do deviation from watercourses. Our farms will be out of business in that area alone.

Exemption of personal liability for government employees: in conclusion we, the Oxford County Federation of Agriculture, believe that if this bill is as important as you apparently believe it to be, this government must remove section 55, "delegation of powers," from Bill 81. Gathering and keeping any information must remain a function of the government if government is to have any control now and in the future. We as Ontario Federation of Agriculture members have seen what happens to costs when outside organizations take over farm business registration.

If there are exemptions from personal liability for government workers in regard to this legislation, if they are acting in good faith, then perhaps if farmers are acting in good faith when they are trying to comply with this act, they too should be spared personal liability.

The OCFA is looking forward to discussion regarding the regulations of this bill as all of our directors found it difficult to comment on a bill when we could not deal with the regulations.

That is the end of my presentation. I've gone very quickly over it. Ten minutes is a tough time.

The Acting Chair: Thank you very much, Ms Walther. There are perhaps two minutes each.

Mr Peters: I just wanted to make a comment on the previous gentlemen. I remember when I was mayor of St Thomas and the reeve of Port Stanley would call me up every summer when the beaches were posted in Port Stanley, and it was always the city's fault because of the bypasses from our pollution plant, and it was true. You raise a really good point, that we have to accept a collective responsibility for what we've done to the water. You can't just point the finger. As a former municipal politician, I can vouch for that.

Nancy, you wear two hats in an interesting way because you are involved with the OFA, but you're also a municipal politician. You also have seen at first hand some of the issues that a municipality faces when somebody wants to expand their operations.

From your viewpoint, maybe taking off your federation hat and wearing your municipal politician's hat, had this legislation been in place already, could it have solved some of the issues that you've had to deal with at a local level, or, even with this legislation, would we still see what is happening in the Otterville area? Would it still have come to the surface?

Ms Walther: To be quite frank, I think it would have helped us with some of the debate we would have had. If you had asked Oxford county for some guidance in this area with regard to sand plains and water recharge areas, the one thing we would have asked the different ministries to get along with was regarding perhaps a bladder or some monitoring process on that type of soil. Clay and sand are two different kinds of aspects. Having said that,

that would have benefited us and we might not have been, I would say, in the pickle we would have been in right at this very moment.

I don't know whether everyone is aware of that situation. I'm sure you've all heard about it. I come from Norwich township in Oxford county. I am the councillor for ward 1, which is asking for environmental assessments on Norfolk sand plains. I endorsed that resolution because I can see that down the road perhaps there is some kind of tool that must be in place to make sure that everyone has safe groundwater. If that sandy soil can take what has been given to it, then that should be the end of the discussion.

We have faith in our nutrient management plan, and that is what we're standing behind, because we feel that it's one of the best ones around. Our hands are tied at the moment as a municipality. As a federation I think we need some assistance in that area.

I hope I've answered your question.

Mr Martin: I think you've done a really good job of touching on the areas of concern that the farmers you represent will have with this bill. One that keeps coming up most regularly here today: I don't think there is anybody who isn't committed to doing the best that they can for the environment, but they don't understand the responsibility we all have to protect that. In many instances it's a question of cost; that's what it boils down to. Who can afford to do this and how do we help people afford to do it? You've raised it as well.

You've also raised the issue of other jurisdictions that don't have, when this is done, as heavy a regulatory regime to deal with, and you have to compete with them. Any suggestions to the government, of which we are all a part, as to how we might deal with that cost, and how we may then have to deal with the competition out there that will be dumping, for all intents and purposes?

Ms Walther: Regarding the cost and compensation, the one thing I firmly believe is that it will be the province that will have to assist the transition time period between one and the other; in other words, before the regulations and the bill actually come in and what is demanded of us. If you are a family farm, no way can you change your earthen lagoons, which we haven't even discussed, because that's under these regulations, and those kinds of case scenarios where they may have to be constructed or they have to be taken out of the earth and then put a bladder in or a monitoring system on the sand plains. All that kind of transition to the betterment of the water for all the people will add a cost. That farmer cannot pay for that.

Mrs Munro: I wanted to come back to an issue you raise on page 2, the question of privacy of information, and it's certainly one I can appreciate. I wondered if you could give us a sense of what you would see as an appropriate alternative to that?

Ms Walther: Unfortunately, in our own municipality the nutrient management plan got into the hands of the public. I'm not saying that's a good thing or a bad thing, but we weren't prepared. They had the whole plan. That

whole plan is designed to make sure that the farmer knows where his nutrients are on his piece of property. Because it was a public document, what they should have had was a top sheet giving the lands that we're supposed to but not the inside: the slope, the watercourses, where he should have been away from and all that; that's his, personal. That nutrient management plan was designed for him. The top sheet to show where the nutrients are supposed to go and what lands are supposed to be on it I believe are OK for the public to see, but not the guts. That's his business.

Mrs Munro: That's really what I was asking you.

Ms Walther: We've already gone into conflict with it because of that. We're at court. I can't say much more about that.

The Acting Chair: Thank you very much, Ms Walther, for your presentation.

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HENRY KOOP

The Acting Chair: The next presenter is Mr Henry Koop.

The Chair: Welcome, Mr Koop. For individuals, we have a 10-minute presentation. Please proceed.

Mr Henry Koop: Good afternoon, ladies and gentlemen. My name is Henry Koop. My brother, my son and I and our respective wives operate a family farm in the Niagara region. We have laying hens for the production of eggs on our farm as well as grapes. We grow grapes for wine, juice and for the fresh table market, all in the Niagara region. As some of you know, I'm also chairman of the Ontario Egg Producers.

Mr Galt: Just a point, Mr Chair. He is representing a group. I think he should get the 15 minutes.

The Chair: Oh, I'm sorry. Yes, the group is making a presentation, but I think Mr Koop is here as an individual. Thank you.

Mr Koop: You'll see as I go through my talk, because I am the official spokesperson for our egg producers, I do go from the family-based opinions. I can't help but bring the egg producers into it.

Mr Galt: Just trying to help you out.

Mr Koop: Thanks, Doug.

I appreciate the opportunity to meet with you here today in a community where Bill 81 will have a direct impact on each and every family. We commend the government's efforts in drafting this important piece of legislation.

The time has come to develop a nutrient management law to protect our environment, promote harmony among all residents in rural Ontario and maintain jobs in communities like Caledonia.

The egg producers in and around this community share the government's interest in developing clear, consistent and reasonable standards. That's because we're deeply committed to preserving our way of life.

Family farms like mine have a vested interest in balancing agricultural production with environmental pres-

ervation. The way I see it, it's the only way to ensure our livelihood.

In my capacity as chairman of the Ontario Egg Producers, I have had the opportunity to meet with many members from this and neighbouring counties as well as from across the whole province. I can tell you first-hand that they all share the same conviction to protect our environment. In fact, many farms have instituted self-managed programs that ensure they handle manure in a way that minimizes any environmental impact.

There's no doubt in my mind that farmers must conform to proper, province-wide management practices. However, we must be allowed to continue our operations in an effective and efficient manner.

Some suggest that a minimum amount of land may have to be owned by each farmer based on the number of livestock. However, such a requirement would result in considerable inefficiencies in farming operations with limited acreage without addressing the environmental concerns they gave rise to. Therefore, I don't believe that minimum acreage regulations are required to protect our natural resources.

The government is right to develop clear and consistent nutrient management standards to ensure that we live in a healthy and sustainable environment, but it must handle Bill 81 with care. Please recognize that farmers produce a lot more than food. We produce communities. Laws that place additional burdens on farmers also place additional burdens on rural communities. Let's ensure that all new legislation allows the family farm to carry on, free from arbitrary legal constraints and overbearing costs.

This is a very critical point for egg producers. Our management practices are homegrown solutions developed by producers whose livelihood relies on agricultural production that's consistent with preserving our environment. It is only common sense for the government to consider many proven practices that reflect the ministry's goals, those goals to promote the economic development of rural communities.

We recognize that farmers must conform to proper, province-wide management practices. However, they must also be able to manage their operations in an effective and efficient manner, free from arbitrary legal constraints and overbearing costs.

On the value of nutrients, for the farmer, manure is not a waste product, but a valuable fertilizer and soil conditioner. We have 250 acres on our farm, and the manure is a very valuable asset, I can assure you.

New regulations should not limit the use of poultry manure based on the size of the farm provided that egg producers handle it in accordance with a nutrient management plan. It's critical that the new legislation recognize the nutrient value of poultry manure.

On enforcing new regulations, it makes common sense that the new guidelines operate under the Farming and Food Production Protection Act. That means OMAFRA should supervise practices around manure handling. As

such, we expect the Ministry of Agriculture to be involved in enforcing new regulations.

On funding new initiatives, the Ontario Egg Producers are self-sufficient in terms of educational and training programs. Adopting new practices based on new legislation will be no exception. However, the government still needs to help our family farms in terms of capital investments. Otherwise, the new legislation will slap an additional burden on our backs even though we have stringent environmental practices already in place.

The government already issues tax credits to big industry for reducing air pollutants. It also provides money to municipalities to improve their sewage systems. Providing financial support to farmers would be a consistent strategy for the government.

On implementing new practices, many egg producers have a nutrient management plan already in place. However, we recognize that this legislation will require a more formalized and universal system. Because investments will be required in education and capital improvements, a minimum of five years will be required to ensure a seamless transition.

We've outlined these and other recommendations to Minister Coburn and would be happy to discuss them in greater detail with you following this formal presentation.

One final note: many egg producers are family-run operations, just like my own farm. For these farmers, success has more to do with the number of family members who gather around their kitchen table than it does with the number of eggs they produce on their farm. Let us focus on preserving our natural resources, promoting harmony between all residents of rural Ontario and protecting jobs in these local communities.

On behalf of myself and our egg producers, I appreciate this opportunity to meet with you today and look forward to working alongside the provincial government to ensure our rural communities continue to thrive in a healthy and sustainable environment.

The Chair: Thank you, Mr Koop. We do have a couple of minutes for questions, and I go to the NDP.

Mr Martin: Thank you very much for a very detailed and thoughtful presentation on this important matter. I think, from listening to you, that you understand the need to do this, and to do it in partnership with the wider community, if we're going to protect our environment and protect the sustainability of the family farm.

You raise an issue that has been raised here on a number of occasions today, which is the viability of the farm. If you put too much regulation that requires investment that is unduly burdensome to the family farm, then you'll end up with families not being able to be in the business of farming and the more intensive farming operations then taking over, because that seems to be where we'll end up if there isn't some assistance here.

Where do you think is the most appropriate place for the money to come from that will be required to implement the new regulations that will be put in place to deal with this issue?

Mr Koop: Thank you for the question. There are a couple of things we have to remember, and I mentioned the fact that the government already has a policy of assisting in environmental situations. That's all we're really asking for, that they continue that same strategy when it comes to this environmental concern. Our family farms are environmentally friendly. They certainly feel that it's important to them, and I stressed that throughout.

The other point was, give us time for implementation, both to help come across, to get built whatever has to be built, or to get funding in place and those kinds of things. So that's really our position on that.

The Chair: I'll now go to the PCs.

Mrs Munro: Thank you very much for coming today and giving us your thoughts on this. My question relates to page 3 of your presentation, at the very top of the page, where you raise some concern about any new legislation recognizing the nutrient value of poultry manure. The reason this struck me was that it crossed my mind that it was consistent with comments that were made earlier with regard to the importance of science and the need for the appropriate work to be done in that area.

I'm just wondering if you have confidence at this point that there is the science that would be appropriate to base any legislation on.

Mr Koop: What we've done as an egg industry, and I'll speak on their behalf: we've already begun testing scientifically the contents of the manure because it varies from farm to farm. That's part of the reason we've begun this; actually, we got into this before this committee was formed. Not to say that we're way ahead of you, but we were thinking along the same line as the government. So, yes, we are finding that it does vary, and the other thing, as I think some of your speakers have mentioned today, is that the crops' requirements vary. So just trying to put one rubber stamp may not totally fit. We've got to look at the big picture.

Mr Peters: Henry, I'd like to go back to page 2, where you say you don't believe that minimum acreage regulations are required. I'm reading something that one of your directors—it was an article that appeared in the St Thomas paper. He makes the comment that sound practices must be based on how one handles nutrients, not how much one handles.

Have you within your industry developed those sound practices as to how you handle nutrients and not so much how much one handles?

Interjection.

Mr Peters: So you're advocating this. Obviously Murray, in his comment in the local paper, has advocated this. Have those sound practices been developed, and could those be provided to this committee so that at that point can be given consideration?

Mr Koop: There are a couple of things. One is that a lot of them are homegrown, as I mentioned, management practices. We're building on this. As I mentioned to Ms Munro earlier, one of the things is that we've started testing the nutrient content of the manure. We've also started developing the management practices more

formally. The ones Murray refers to there would be informal, so at this point I can't go to a book and page and say this is the way it's working out, but we're in the development process right now, Steve.

The Chair: Thank you, Mr Koop. On behalf of the committee, I appreciate your making a submission.

Looking at our agenda, the Ontario White-Tailed Deer Producers' Association, we've just received notice that they are unable to attend this afternoon.

There is a presentation from the Haldimand-Norfolk Organization for a Pure Environment, HOPE. The person, who was here, I think is making some copies of their brief. This will be the last presentation of the afternoon.

We'll have a five-minute recess.

The committee recessed from 1504 to 1516.

HALDIMAND-NORFOLK ORGANIZATION FOR A PURE ENVIRONMENT

The Chair: Our next and final delegation for today is the Haldimand-Norfolk Organization for a Pure Environment, also known as HOPE. I welcome you and I would ask you to identify yourself for the purposes of the Hansard recording. Please proceed.

Ms Marina Martin: Thank you very much for the opportunity to speak with you. My name is Marina Martin. I am chair of HOPE and speaking on behalf of HOPE. I am also speaking as a farmer who has over the years run a small, 50-acre market garden operation and as a farmer who has been directly impacted by adjacent spreading of both sewage sludges and paper mill sludges. So I can speak directly to the impacts on neighbours. I'm also speaking as a health professional in this community who is in at least 30 homes a week in this rural area. Lots of farmers bend my ear, so I have an understanding of how the community sees this. And most of all, I'm speaking as a mother.

My talk is going to be entitled What About the Children?

First of all, in terms of my personal experience with sludges of both sorts, it's all there on the first page, the basics being that in 1991 the paper mill sludges were applied next door. We had permanent effects from them, including health. Also, they were spread right through a floodplain on the creek that feeds our pond and our own creek. Without consultation ahead, no contact with neighbours, the ministry could not know that there was a floodplain there. The entire floodplain, including the creek, was spread with paper mill sludges. There was nothing done by the MOE.

The applications were twice as heavy at the back of the farm as at the front. There was a low area that feeds directly into our woods where there is an important slough, part of an extension of the North Cayuga slough forest. Over the years, all the mature oaks in that slough have died, whereas none of the oaks in the rest of our 25-acre forest have died. That's impact directly to farmland. Because we run an organic farm and have a specialty

customer, we are impacted in that we can't plant anything near the fencelines.

The second application was only last summer and that was sewage sludges from Hamilton. Again, it happened while we were away or at work—we found out afterwards—and again, it was done within 10 feet of a ditch along the road, which is way beyond the regulation. We immediately called the farmer and asked him to berm it so that the liquid wouldn't get into the ditch. He complied. Two weeks later when we came home from our holidays, the berm was removed. There had been extensive rains and there was a ditch drawn right into the road ditch, which went across the road, under the road, into our creek. We have a pond which is fed by the creek. We have it stocked with smallmouth bass. It's a half-acre pond and we swim in it. It is now full of algae. Direct impacts from neighbouring farms. We did not know this was going to happen; we could not comment. Otherwise, something could have been in the management plan. So those are the starts.

The second page: What About the Children? As a preamble, I wanted to say that I want to put a human face on this, what the toxins that are included in the sewage sludges and the paper mill sludges do to people. This is really important. Children in particular are affected. I have a case here. You have a test result from McMaster University, which is a very small part of her problem. We will call her Dawn.

Environmental sensitivity exists. People aren't born with it; they might be born with a predisposition to be affected. Environmental sensitivity is caused by exposures. Children are the most sensitive to them. Current levels of what they call "acceptable toxicity" are based on the adult male population. Children are six times more sensitive. For example, they take in six times more air per unit of body weight than an adult male, so they have six times the exposure to airborne toxins. They play on the ground, they eat dirt, they sit in the grass, and many of the toxins are absorbed through skin.

You can't always say this sludge application—sometimes you can; I have a case mentioned in here where you can—or this exposure at school caused the problem. The problems are incremental. They develop over a period of time and generally you don't see the problem right away.

The child Dawn, now 20 years old, raised on a local farm, was diagnosed with hypothyroidism at age 10½—that's the endocrine system—and pseudotumour cerebri, that is, fluid pressure on the brain, and blindness at age 11½. The symptoms were extensively investigated and determined to be due to environmental stressors. After that, mononucleosis at age 16. And I forgot to write one down in here: meningitis as a result of one of many lumbar punctures that were done to take fluid off the brain. Erythema multiforme, an entire body rash, lasted many months—excruciatingly painful. Those are all the immune system. Mesenteric adenitis only this year, again an autoimmune disease.

Known exposures: age one, severe respiratory distress requiring emergency treatment from adjacent farm 2,4-D

spray when wind volumes were high and she was playing outdoors. Ages five to 10, she was in a school which was later investigated at the recommendation of the allergy specialist and was found to be very poor in air quality. So those are two—incremental, remember. Third, half a year before she came down with serious symptoms, paper mill sludges next door and very highly disturbed on a windy, dusty day, with plowing, disking etc. The air was full. We did not see it happen until we were in the middle of it and we took her away.

In any case, costs—and this is what's important to you. You have an incredible problem in having to deal with nasty wastes that nobody wants, and they're expensive to dispose of. You must investigate the cost of not disposing of them properly: some \$100,000 in hospitalizations, MRIs, ultrasounds, CT scans, lumbar punctures, doctor's visits; \$500 a year, medications from insurance; family, \$40,000 over three years for diagnostic tests and treatments that were not covered by insurance.

Aside from that, schooling was markedly affected. She missed three years of school. She missed about 40% of all her high school years and was not able to complete high school. Fortunately, it has a happy ending. She was able to get into university and is now in the third year.

Symptoms: the worst were neurological symptoms. They were insidiously progressive: difficulty breathing, walking; severe, unrelenting headaches, dizziness, nosebleeds and earaches that were untreatable; loss of IQ—three grades, according to the testing at school; progressive blindness called papilledema.

I would like you to look at the picture that's in your package. I would like you to look at the tests from McMaster University. Those are—

The Chair: Ms Martin, could I interrupt just for a moment on maybe a cautionary note with respect to medical records. I don't know whether this is this person's real name and whether these are the real records.

Ms Martin: You have the real name, yes.

The Chair: Just a caution. For example, in hearings like this or in the Ontario Legislature, members of the provincial Parliament are protected by parliamentary privilege. I guess I'm unclear on the legalities. I just want to caution you that it's unclear whether the protection extends to witnesses before a committee and whether it is, for that matter, appropriate to present someone's personal medical history in public.

Ms Martin: OK. I don't mind, as long as I've put a note on here that for sure I don't want the press to get a hold of pictures or medical records. I don't mind. I think it's very pertinent to this committee, because faith has to be put on what is happening here and I don't think people sitting around the room listening to a lot of presentations will really understand until they hear a personal history.

The Chair: Yes, I understand your reasoning behind it. I just have a concern with the confidentiality of medical records. I don't know whether this has been distributed to the press.

Ms Martin: No, it hasn't. I've put a note on the front of each one that the press can't have it.

Mr Galt: Mr Chair, every comment does get recorded in Hansard, and she should be aware of that.

Ms Martin: The name is a pseudo name. For credibility, the real name is on yours only.

The Chair: I see. I'm just looking at this actual printout of a record. It's hard to read, but I do see several names. I just might, for your protection, maybe ask for the opinion of a lawyer.

Ms Martin: I don't mind you having a record and I don't mind the province having a record. I do mind the press having a record.

Mr Avrum Fenson: It would be appropriate to get the consent of the adult who is the subject of these records before making them public.

Ms Martin: Yes, I have her consent.

Mr Fenson: You realize of course that this document becomes a permanent record and is in the legislative library exactly as you gave it.

Ms Martin: OK, yes. Is it possible for you to white out the name on the one document or just return it, then? It's up to you.

The Chair: I will now call on the clerk for an opinion. It is important that we proceed with caution and I will ask our clerk.

Clerk of the Committee (Mr Tom Prins): I just had more of a question. Is it just this one page that contains—

Ms Martin: That's the only page that has the real name. I felt I needed to put the real name so that it would be credible.

Clerk of the Committee: OK.

Ms Martin: Otherwise it could be any story.

The Chair: The clerk has made it clear to me he is going to remove this page and I'm going to remove this page as well.

Ms Martin: That's fine. You will see the vision missing and you will look at those eyes in that picture and see the distress. It was not caught in time to save all her vision.

The worst symptoms were neurological symptoms, which were insidious and progressive. I've just told you that. The very worst symptom of all is at the end and that was the hallucinations that lasted for years. Just to give you a feeling for the impact of an illness like this, I've written for you and I hope you'll read it, at the bottom of page 2, the nature of the hallucinations. I felt in presenting this report that actually these hallucinations were very apt symbols for the issues to be dealt with in this brief: a pig with a slit eye. That is the horror of what happens to people when they are exposed to toxins.

Crises occur and that's when you find out. You can go for years without really knowing, having vague symptoms. Often it's too late for them to do anything and for the immune system to be saved.

The Centers for Disease Control have issued a health alert for sewage sludges causing environmental illness. Sewage sludges contain runoff from industrial waste and pathogens produced by the city and town populations that generate them. That's everything such as gas stations,

pesticide companies, household cleaners that get flushed down the toilet etc.

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It has been determined that 117 types of viruses survive in the sewage treatment process, including polio, hepatitis A, echo, retro and adenoviruses. Meningitis is a disease you can get from it. Paralysis, encephalitis, infectious hepatitis, gastroenteritis—major illnesses can be caused. In an article in *Applied and Environmental Microbiology* in January 1996 about airborne bacteria and pathogen indicators during land application of sewage sludges, it states that they are very high in fecal coliforms and fecal streptococci, and they recommend that the maximum application be three tonnes of dry weight per acre, as opposed to our current eight. The people most likely affected are the people who are workers in the field, and the risks are increased to other people with wind and agitation, water runoff etc.

Heavy metals are consistently present in sewage and paper mill sludges. They are predominantly arsenic, lead, mercury, chromium, copper and cadmium. Hamilton's sludges are very high in copper, and testing determines that levels of all the above heavy metals are often over current regulatory limits, and there are no punitive actions being taken as a general rule. Just for an idea of incremental effects, cadmium is close to the most toxic level that is allowed in food right now—and remember, that's adult males. Cadmium is also very high.

Chemicals, dioxins and furans: there is no safe level of these determined, yet levels of 40 parts per trillion are regularly found in sewage sludges being applied to farmland in Ontario today. Two parts per trillion is the average on a farm field. Cattle grazing on treated fields eat an average of one kilogram of soil a day. That becomes concentrated in milk and dairy products. That is our most significant source of dioxins and furans in a child's diet today. These are neurotoxins. Other chemicals are endocrine disrupters such as phenol groups. Others are immune system distressers. Waste treatment digesters breed antibiotic resistance because the bugs that survive the digesters are antibiotic resistant because there are antibiotics in sewage.

Let's face it. Sludges are bad for your health. They affect children, they affect ecosystems, they affect rare species, they affect farmers who apply them and they affect their neighbours.

Recommendations: reduce levels of pathogens, heavy metals, chemicals and drugs in the waste stream through education, safe recycling and enforcement and committed financing. Phase out the practice of spreading sewage and paper mill sludges on agricultural lands as soon as possible. Treat and dispose of these wastes with respect. Notify all potentially affected citizens as well as municipalities of all permits under consideration, so they can bring their knowledge of a site or of an at-risk individual to full attention before the permit is issued. Assess on a continuing basis health hazards, including cumulative effects.

Snake in a baby bonnet: this is about being fooled. On the surface, it looks OK. The progressive renaming of

sewage and paper mill sludges to “biosolids,” “nutrients” and “fertilizer” is deceptive at best, as these sludges are full of toxins and pathogens. Language is a powerful tool of persuasion, and this language lulls the cash-poor farmer into believing that what he is doing isn’t all that bad. Perhaps he isn’t aware of the liability issues arising. For example, in the US, a lawsuit in New Hampshire where a sludge neighbour’s death was directly attributed to sewage sludge spreading. A few days after the spreading, he died and it was attributed. Or of the risk of disease to his own children who are obviously surrounded by it. As an example, a 14-year-old boy died unexpectedly two days after inadvertently crossing a spread field, and it was directly attributed to the sewage sludges.

He may not know that currently the regulations and standards are slack, that they aren’t being enforced, that the ministry is moving to self-management and that the MOE, through decreased staffing and enforcement, are facilitating mass disposal on farmlands, which has increased from one third of the stream to two thirds of the stream. He may not know that he’s placing the financial and emotional investment that he has in his farm at risk. He may not realize, because obviously he’s getting free fertilizer, that maybe he’s deciding he’s going to risk his health, so he obviously isn’t going to realize that he’s risking his neighbour’s health, his neighbour’s land, his neighbour’s security and the ecosystems downstream.

The Chair: On behalf of the committee, can I ask you if you can just wrap up and give us a conclusion? We’ve gone over time.

Ms Martin: OK. There are some really important things. Does my time include all those—

The Chair: Actually, your time was up about five minutes ago, so we do have to adjourn these proceedings.

Ms Martin: OK. The most insidious wrong with Bill 81 is the shift in responsibility for sludges from the MOE to OMAFRA, which has no history of environmental regulation or enforcement and also could have a conflict.

A scary quote from the Minister of Agriculture: “This legislation will supersede anything we have now.” As it stands, Bill 81 gives unconstrained control over an unwritten book and affects untold lives.

There’s no provision for liability. Is it the minister, the municipality, the hauler, the farmer, the landowner?. The

MOE will not guarantee the quality of sludge and the hauler will not warrant that there are no environmental effects.

The lack of a preamble to Bill 81—critical, glaring. It is a shocking precedent of making laws without adequate prior consideration of why. The Environmental Protection Agency, the Environmental Bill of Rights and the Environmental Assessment Act all have it. Why is it not here? It does not give a guideline for people to make the decision. Bill 81 is as deceptive in what it doesn’t say as what it does say.

You can read the recommendations. Ominous man in a dark uniform: obviously Big Brother. This legislation is repeating the same errors and omissions that contributed to the death of seven and acute and chronic illnesses of 2,000 in Walkerton. There are no enforceable instruments related to the sewage sludge. These sludges must not escape management under provincial certificates of approval for waste disposal which is enforceable.

It just gives a few examples of where it’s not enforced. The MOE has authority to enforce and, as well, to amend certificates. It just doesn’t happen. This piece of legislation is much weaker than what we currently have.

A big thing missing, alarmingly, is that there is no duty. The success or failure depends on the strengths and weaknesses of standards for safe management of wastes under the jurisdiction of the ministry. Alarmingly, there’s no duty under this bill to pass any regulations whatsoever and there are no deadlines or time frames for standards.

The Chair: Ms Martin, we will have to wrap this up. We have your brief as well. So on behalf of the committee, I wish to thank you and to thank HOPE for that presentation.

I’d like to open it up to the committee. With respect to arrangements, the bus is waiting outside. We are at the Ramada Inn in St Thomas this evening. Are there any other logistical issues? Seeing none—

Ms Martin: Does anyone have any questions?

The Chair: I’m afraid we’re finished with the whole presentation.

The bus is leaving just before 4 o’clock. Our hearings for today are adjourned.

The committee adjourned at 1540.

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Tuesday 11 September 2001

Journal des débats (Hansard)

Mardi 11 septembre 2001

**Standing committee on
justice and social policy**

Nutrient Management Act, 2001

**Comité permanent de la
justice et des affaires sociales**

Loi de 2001 sur la gestion
des éléments nutritifs



Chair: Toby Barrett
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICYCOMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Tuesday 11 September 2001

Mardi 11 septembre 2001

The committee met at 1002 in the Ramada Inn, St Thomas, Ontario.

NUTRIENT MANAGEMENT ACT, 2001

LOI DE 2001 SUR LA GESTION
DES ÉLÉMENTS NUTRITIFS

Consideration of Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts / Projet de loi 81, Loi prévoyant des normes à l'égard de la gestion des matières contenant des éléments nutritifs utilisées sur les biens-fonds, prévoyant la prise de règlements à l'égard des animaux d'élevage et des biens-fonds sur lesquels des éléments nutritifs sont épandus et apportant des modifications connexes à d'autres lois.

The Acting Chair (Mr Bob Wood): Ladies and gentlemen, I wonder if I might call the meeting of the standing committee on justice and social policy to order. We're here today to hear submissions on the nutrient management bill, Bill 81.

MARY LOU CLARK

The Acting Chair: Without further ado, maybe we could ask Mary Lou Clark to come forward. Make yourself comfortable at our presentation table and help yourself to a glass of water, if you'd like one. You have 10 minutes in total to make your presentation before the committee. You can take up as much of that 10 minutes as you'd like with your formal presentation. If there is any time left over of the 10 minutes after that, that's available for members of the committee to ask you questions. I invite you to proceed and make yourself comfortable.

Ms Mary Lou Clark: Good morning. I would like to take this opportunity to thank the standing committee on justice and social policy for allowing me this opportunity to bring forward some of the concerns I have with the proposed nutrient management legislation.

My name is Mary Lou Clark. I reside on a beef farm in Elgin county. I was raised on a mixed farming operation and have been actively involved in the agricultural industry for the majority of my life.

Primarily, I support the efforts of the government to establish practices, standards and codes simultaneously with befitting enforcement mechanisms to ensure that our families, other citizens of Ontario and future generations enjoy safe groundwater. Nonetheless, I am very concerned that the agricultural industry may become the scapegoat for other industries, municipalities, residential home owners, recreational landowners, trailer parks and all persons who use or produce nutrients that contribute significantly to groundwater pollution.

It is apparent that the proposed legislation relates to land use planning and environmental impact. This will provide a framework within the province which the government can use to enforce legal requirements.

Accordingly, I have concerns and questions with respect to the following issues: equal implementation, draft regulations, government support, scientific research, technical assistance, financial assistance and limits on animal units. The fact is that the proposed nutrient management legislation was referred to committee after first reading.

Firstly, equal implementation: the proposed nutrient management legislation must be equally implemented for all persons and landowners who own lands and use or produce nutrients as the above-noted legislation relates to land use planning and environmental impacts.

It is imperative that the lands that are designated for industry, commercial development, landfill sites, recreational-residential uses, trailer parks, homeowners etc be included within the proposed nutrient management legislation. Agriculture must not be singled out for the particularly rigorous requirements. It is my understanding that trailer parks were originally included to be covered under the proposed legislation, and for whatever reason, they were removed.

During my recent experience at an OMB hearing which directly related to a parcel of land zoned for recreational land use that is utilized for a trailer park, parties raised numerous concerns that related to land use planning, servicing, water quality, water quantity, sewage treatment and disposal, land use compatibility and adverse impacts and also the issue of non-compliance to standards and the municipalities' inability to enforce legal requirements that relate to trailer parks.

I request that the land zoned for recreational use be included and required to abide by the standards and regulations set forth under the proposed legislation.

Draft regulations: this legislation provides the government with enormous powers to regulate the agricultural industry. However, it is my understanding that draft regulations are currently not available and yet hearings are being held. I am concerned that hearings are being held without the draft regulations being made available and circulated for comment or input. Thus, we do not know the precise nature of the regulations. The regulations will determine whether the act is permissive or whether the act is used as a weapon to shut down the agricultural industry in Ontario.

Next, government support, scientific research, technical assistance, financial assistance, limits on animal units: it is important that the committee have factual, scientific data to work with in order to make an informed decision. Prior to the government imposing legislation that limits the number of animal units that can be maintained at any particular site, scientific research must be done.

I ask the committee if they are aware of whether or not there has been scientific research to determine the appropriate livestock levels for the various soil types in relationship to individual agricultural land and whether or not research has been done in conjunction with lands designated for other uses.

I ask the government to sponsor sufficient research to permit the testing of lands that are designated for agriculture, industry, commercial development, landfill sites, recreational-residential uses, trailer parks and homeowners in order to allow them the opportunity to protect the groundwater.

Further to this, I ask the government to sponsor sufficient research to permit the farmers to determine the appropriate livestock levels for the various soil types. Moreover, I ask that the government provide the necessary funding to ensure that farmers receive both financial and technical assistance to address environmental issues at the farm level.

Why was the proposed nutrient management legislation referred to committee after first reading, as opposed to after second reading?

Once again, thank you.

The Acting Chair: That appears to leave us two minutes in total, which would amount to about 40 seconds per caucus. Perhaps we can start with the Liberals.

Mr Steve Peters (Elgin-Middlesex-London): Regarding scientific research, who do you think should be leading this scientific research?

Ms Clark: I honestly don't know that.

1010

Ms Marilyn Churley (Toronto-Danforth): Thank you very much for your presentation. There's not enough time to ask sufficient questions, but can I briefly ask you, when you mention scientific research, do you feel that there isn't enough to even be bringing in a new law at this point? I'm not quite sure what it is you think we need to proceed from here.

Ms Clark: You need to allow the farmers to test their soil, whether it be sand, gravel or whatever their soil is

on, because different nutrient levels are determined by how far down your groundwater is. There needs to be environmental scientific research done on that. In other words, testing of their soil.

Mr Doug Galt (Northumberland): Thank you for your presentation. It had a lot of good content. If I could just respond to some of your concerns as to some of the current thinking, with equal implementation, certainly the intent is standards across Ontario, but there will be flexibility within the nutrient management plans as they are approved. Also, they will be looking at three different levels of numbers of livestock. But there's no intent at this point of putting any limit on numbers of livestock; it relates to the amount of land the manure can be spread on.

Trailer parks: I'm a little confused at the thinking there. The intent of this is that all conditioners of soil, all nutrients, will be covered, so anything coming from a trailer park and going on land is certainly going to be covered in this bill.

As it relates to regulations, there is always the problem of how much in regulation, how much in the bill. In any bill, you have to have the bill to have the authority to create regulations.

The Acting Chair: On that note, we've run out of time, unfortunately. Thank you very much for your presentation.

ONTARIO CATTLE FEEDERS ASSOCIATION

The Acting Chair: Mr Jim Clark, Ontario Cattle Feeders Association, please. You have been allocated a total of 15 minutes. As much of that as you want can be taken up by your presentation. The balance of the time will be available for members to ask you questions. Please proceed.

Mr Jim Clark: Good morning and thank you. My name is Jim Clark. I'm general manager of the Ontario Cattle Feeders Association. The Ontario Cattle Feeders Association wishes to take the opportunity to provide comment to the standing committee. We have taken the opportunity to follow up with a written version of our submission here today, and you have that copy. We believe the members of the OCFA are stakeholders with a vital interest in the current debate regarding agricultural practices in Ontario.

The Ontario Cattle Feeders Association is an association of beef feeders who carry on businesses of significant size. Our membership includes the producers of approximately 55% of the total finished beef cattle in the province of Ontario. We therefore regard ourselves as stakeholders having a very significant interest in large-scale livestock production and the regulations governing agricultural practices of intensive livestock operations.

Clean groundwater is vital to our members. Our families and our animals rely almost totally upon groundwater. We cannot carry on business if our local water sources are polluted. We strongly support the

ongoing process, which can, if managed in a dispassionate fashion, lead to codes, standards and an enforcement process which will ensure safe drinking water for the citizens of Ontario. The Ontario Cattle Feeders Association supports legislation and regulations which will implement a code of agricultural practice for Ontario farmers. We urge the government to draft legislation which goes well beyond livestock production as a threat to the environment to make sure that other potential sources of groundwater contamination are properly controlled. We submit that it would be appropriate for the government to also implement standards and policies for the other sources of groundwater contamination.

The Ontario Cattle Feeders Association submits that in addition to agricultural enterprises, the following sources of pollution need to be comprehensively governed through the use of appropriate standards and enforcement:

(1) Private septic systems: the studies of rural wells in existence indicate that the contamination of wells became a significant problem before intensive livestock barns came into existence. An obvious concern is the continued use of thousands of antiquated septic systems.

(2) Landfill sites: the leaching of pollutants from landfill sites should be a source of concern to those who govern drinking water standards.

(3) Municipal waste spreading: controversy has arisen with regard to the practice of urban municipalities contracting the spreading of sewage sludge upon agricultural land. The OCFA submits that sewage sludge operators should be governed by nutrient management plans and should be governed by codes of practice which will be similar to the codes that are going to be imposed upon livestock operations.

(4) Municipal waste treatment plants: sewers and waste treatment plants in urban areas are regularly overwhelmed by significant rainfall. Untreated water bypasses these systems and generates pollution. Hundreds of spills or bypasses occur each year in Ontario, and they are practices which are no more acceptable than farming practices which ignore environmental responsibility.

Intense livestock operations should not be singled out for any particular onerous requirements. Golf courses, factories, landfill sites and other facilities which pose a threat to the environment should be governed by similar practices.

In addition to the general comments outlined previously in this section, there are a number of specific standards which are supported by this organization. The OCFA would suggest that building standards should go even further and that a complete building code for agricultural construction should be created. The MDS formulas should continue to form the base by which agricultural buildings are separated from neighbouring buildings.

Nutrient management plans should be mandatory for all farmers. Mandatory nutrient management planning

should not be limited to livestock operations. All farms should adhere to reasonable nutrient management practices.

It will be very detrimental if the process results in legislation that imposes controls by placing maximum caps upon the number of animals which can be housed in any particular site. The OCFA submits that the government should sponsor sufficient scientific research to permit farmers to determine the appropriate livestock levels for various soil types before limiting the number of animal units which can be maintained at a particular site.

Funding: farmers are going to be required to spend huge numbers of dollars in order to comply with appropriate environmental standards. Because the capital cost to the farmer is so substantial, the OCFA submits that the administrative costs of monitoring, reviewing and enforcing these standards should be borne by the general revenues of the province of Ontario. If crushing financial burdens are placed upon farmers to the point where livestock production is substantially reduced, tax revenues will decline as jobs and income wither away and the cost of food is likely to increase. Our position in this regard is supported by the statement in the Galt and Barrett report, which notes:

"There is disparity among regions as to the level of support farmers receive to address pollution concerns. In general, European producers and American producers receive a higher degree of direct financial and/or technical assistance to address environmental issues at the farm level."

Generally speaking, we are supportive of the concepts outlined within the legislation. However, we recognize that the real measure of this legislation will be in the manner in which the regulations are drafted. It is our understanding that draft regulations are not yet available, and they are absolutely vital to the effectiveness of this legislation program.

The legislation provides the minister with enormous powers to regulate industry. We are concerned about the hearings being held before regulations are available in draft form, because the precise nature of the regulations will determine whether the act is overly permissive or whether it is used as a weapon against agriculture in Ontario. We assume that the tone of the regulations will be neutral and at the mid-point between the two extremes set out within the preceding sentence.

We support the concept in part II of the act that the legislation should govern standards respecting the management of materials containing nutrients that are used on agricultural operations and requiring compliance with standards. We agree that it is appropriate to specify standards for the structures or buildings used to store nutrients and respecting the volume of nutrients that may be applied to land. On a general basis, we do not disagree with any of the concepts set out in sections 5 and 6 of the proposed act. The concern is that we do not know the specific standards and whether they will be realistic. We therefore recommend that the province utilize nutrient

management plans as outlined previously herein when setting the appropriate standards.

1020

The OCFA is delighted to learn that there is due process provided to individuals involved in the system. We support the concept of using directors as long as they remain provincial employees. We support the concept of an independent tribunal provided the tribunal is composed of members who do not have political agendas. These individuals will have to be screened carefully.

In general, the concept of using a provincial director, tribunal and Divisional Court is something the OCFA has long supported as the appropriate enforcement mechanism. It moves the agricultural standards away from municipalities that may be motivated by a small number of capricious voters who can seize control of the agenda of a small municipality.

The OCFA supports the wording of the draft legislation for those sections dealing with inspections and orders. We are satisfied that due process is given to an individual who may run afoul of the system without intending to do so.

The Ontario Cattle Feeders Association recognizes that it is appropriate for the minister or director to have a broad right to require work to be done on a farm and to have police assistance where necessary. We also agree with the concept of requiring a person to pay the costs of the work, and we support the concept of the collection of these costs on behalf of the taxpayers of this province.

Therefore, there are two concerns that we have with regard to this part of the legislation: (1) we are not sure how landlords who lease barns to farmers will be affected; (2) we are also concerned that due process is not set out in this part of the act in the detail that is provided in earlier parts of the act. We trust that work would not be ordered by a director or a minister until other efforts and warnings had been given to the farmer. However, we feel that a requirement for some due process needs to be placed in this part of the legislation.

Part VI: this part of the legislation deals with enforcement. The OCFA supports the concept of large fines which are available to punish individuals who wilfully contravene the legislation. We assume that the director, tribunal or court would have the training to utilize discretion and to know when a maximum fine is appropriate or when a more modest punishment is appropriate. The potential size of the fines again emphasizes the need for directors, tribunal members and judges who understand agriculture.

A second concern we have with part VI is that larger fines may be given to larger farms. Fines should be set on the culpability of the individual who has committed the offence. The issue should be the amount of damage actually done by the wrongful act and, more importantly, the harmful effects to the environment caused by this wrongful act.

Part VII: we agree it is appropriate that the Nutrient Management Act should not affect the application of the

Environmental Protection Act, the Ontario Water Resources Act or the Pesticides Act.

We have a specific concern with regard to section 55 of the act, which deals with delegation of powers. This section permits the minister to enter into an agreement for the purpose of delegating a wide variety of powers. Who is going to be eligible to receive the delegated power? One of our main concerns is that municipalities should have a very limited role in this process because they will apply different standards across the province. The OCFA believes strongly that we need to have a universal set of standards which can then be applied on a site-by-site basis. Accordingly, the OCFA would vigorously oppose any delegation to any body that does not report directly to the minister or OMAFRA and that is not responsible directly to the minister or OMAFRA.

By way of example, we would support the concept that the minister may wish to contract out the business of issuing, amending, suspending or revoking certificates, licenses and approvals as outlined in section 55(1)(c). If this delegation is provided to an individual or a corporation directly responsible to the minister, we are supportive. If it is delegated to a local political unit such as a township, then we are opposed to the concept. We believe this concept needs to be further developed and outlined within the legislation and not within regulation.

We also have concern with regard to section 57, dealing with fees. We are not opposed to fees in some circumstances, as we outlined previously in this paper. However, the legislation gives no guidance as to whether one will pay a fee in order to have a nutrient management plan approved, which would be appropriate, or whether farmers would have to underwrite the entire apparatus of nutrient management governing, which we strongly believe should be paid by the general revenues of the province for the reasons outlined previously.

We warmly endorse section 60 of the act, stating that the Nutrient Management Act and its regulations will supersede any bylaw of a municipality which addresses the same subject matter. That section is in accordance with our concept that we need to govern nutrient management planning from a provincial rather than a municipal level.

The drafters of the Nutrient Management Act have gone to some length to make complementary amendments to other pieces of legislation. Once again, we are generally supportive of them. However, the complementary legislation appears not to affect the Ontario Municipal Board. The OMB has managed to become involved in agricultural planning issues from time to time where it has no particular expertise. Since the government is making the decision to provide the Nutrient Management Act with superiority over other pieces of legislation, we suggest it is very important to include the Ontario Municipal Board. The legislation governing the Ontario Municipal Board should be amended so that the OMB is required to make its rulings in accordance with the regulations of the Nutrient Management Act. Otherwise, land use disputes are likely

to end up in front of the OMB and the OMB may develop a parallel jurisdiction that frustrates the goals of the Nutrient Management Act.

The OCFA strongly supports the efforts of the government to establish practices, standards and codes, together with appropriate enforcement mechanisms, to ensure that our families and the citizens of Ontario enjoy safe groundwater. However, we are very concerned that large-scale livestock operations may become scapegoats for other operations, municipalities and homeowners that contribute significantly to groundwater pollution.

We sincerely hope that the comments outlined in this report can assist the standing committee inquiry in its efforts to establish appropriate practices, and we trust that our concerns will receive your consideration. Thank you.

The Acting Chair: We have one minute left, and I propose to give that in its entirety to Ms Churley.

Ms Churley: Lucky me. Thank you.

I appreciate your comments. I guess I should start by saying that my only political axe to grind is one of wanting to protect the environment, and I see that you said that as well.

I have a really big concern with the legislation and your support of it, and that is not allowing municipalities to have a say in controlling the land use in their own jurisdiction. Given that there can be so many variations—not just soil type but the level of tourism in the area, a fragile water source, a headwater on the land or whatever—each municipality is different, and local councillors know better than us, sitting on high, and can work directly with everybody concerned to come to the best solution. I am personally concerned about that and I'm not supporting your position on it.

Can you tell me how you would see the community and municipality being able to have a say in what happens in their community?

The Acting Chair: Unfortunately, we're going to have to leave that answer for a private discussion later because we are out of time.

Mr Clark: That's too bad.

The Acting Chair: Thank you very much for your presentation.

CONSERVATION ONTARIO

The Acting Chair: Could we ask Peter Krause of Conservation Ontario to come forward, please. Perhaps I can outline again the ground rules, which you have probably already heard. You have 15 minutes allocated for your presentation. You can take as much of that time as you want for your presentation. If any time is left over, that will be available for members of the committee to ask you questions. We would ask at the start that each of you identify yourselves for the purposes of Hansard. If each of the people here could simply say who they are, then whoever is going to make the presentation can start, or if all of you are going to make parts of the presentation, just alternate as you see fit.

Mr Peter Krause: We'll start from my left for introductions.

Mr Richard Hunter: I'm Dick Hunter. I'm general manager for Conservation Ontario.

Mr Krause: I'm Peter Krause, chairman of Conservation Ontario.

Ms Tracey Ryan: I'm Tracey Ryan, Grand River Conservation Authority.

Mr Ted Briggs: Ted Briggs, Upper Thames River Conservation Authority.

The Acting Chair: Please proceed.

Mr Krause: Thank you for this opportunity to speak to you regarding Bill 81, the Nutrient Management Act. I mentioned that I was the chair of Conservation Ontario. I'm also chair of the Grand River Conservation Authority.

As you may know, Conservation Ontario is the umbrella organization representing Ontario's 38 conservation authorities. On behalf of their municipalities, conservation authorities manage watersheds in which 90% of the provincial population resides.

We are here before you as water resource managers. Our priority is to ensure the protection of secure supplies of clean water and to maintain healthy rivers and streams. Our key message today is that the water protection potential of Bill 81, the Nutrient Management Act, and its proposed regulations be strengthened.

1030

Bill 81 addresses one component of protecting surface and groundwater resources from agricultural impacts: nutrients. However, agriculture practices may also contribute other contaminants such as sediment, pesticides and pathogens to water. In the wake of Walkerton, it is apparent that source water management needs to address all land use impacts, including urban development, septic systems and agriculture, in order to effectively protect safe water supplies. In the larger picture, therefore, Conservation Ontario strongly advocates that there must be a provincial water policy framework developed in order to address the complex issue of protecting water resources in a coordinated and cost-effective manner. The Nutrient Management Act is one tool within this framework.

Looking at Bill 81, Conservation Ontario would recommend that the regulations be broadened to incorporate watershed characteristics in order to provide effective water protection. In order to do so, it would require the following actions to be taken.

There is a need for updated and consistent resource information across the province, especially with respect to groundwater. Work is required to identify recharge areas, map aquifers, identify municipal wellhead protection zones, and model surface/groundwater interactions and water budgets. Until this information is available across the province, it will be difficult to make informed decisions and to provide adequate environmental protection.

Surface and groundwater monitoring are essential to monitor changes in water quality and to implement

measures to address trends before serious environmental impacts occur. Additional resources are required in order to compile and provide watershed information for the evaluation of land use activities on water.

In terms of enforcement and compliance, any nutrient management plan for new and expanding agricultural construction must be accompanied by a comprehensive water quality protection plan. This plan would provide a baseline of information for both surface water and groundwater conditions on a site-specific basis, as well as identify how any risks of contamination would be dealt with. This preventative activity would go a long way in alleviating the public's environmental concerns.

It is important that the provincial government be responsible for enforcement in order to ensure a consistent approach. However, in order for this enforcement to be done properly, additional funding and staffing will be required. It simply cannot be an added responsibility for existing staff, or the job won't get done properly.

Further, we recommend that Conservation Ontario should be consulted in the development of Bill 81 regulations to ensure that decisions are compatible with conservation authorities' current policies.

We agree that all lands subject to applications of nutrients should be required to regularly complete a nutrient management plan. The proposed nutrient management plan registry should ensure that data is available to enable nutrients to be managed on a watershed basis.

Conservation Ontario supports the inclusion of biosolids applications on agricultural lands in the proposed Bill 81 and regulations. Biosolids management requires a rigorous review and approval protocol to ensure environmentally safe applications that protect drinking water as well as the environment. There must be further research to review all contaminants in biosolids and determine the potential for impact on surface and groundwater as well as health.

It is very important that the proposed Bill 81 provide authority for a regulation banning the land application of untreated septage over a five-year period. We see this measure as critical for the protection of water resources. It is also imperative to develop a strategy for alternative disposal of septage waste. This may require providing additional wastewater infrastructure capacity to handle septage waste disposal and treatment.

It is proposed that Bill 81 would provide regulations governing distance requirements for manure and biosolids near wells and waterways. Conservation Ontario supports this as an important measure to protect water resources from agricultural activities. This distance should be based on a formula that would consider specifics for a site such as topography, watercourse characteristics, soils and type of contaminant source.

In order to further protect ground and surface water quality, regulations related to nutrient management plans need to be broadened to add best management practices for agricultural pathogens. These pose a serious potential

risk to human health if present in ground or surface water sources.

There is a need for the government to put more funding into environmental research. In many cases, best management practices have not been scientifically validated, and this needs to be done.

Conservation Ontario has three recommendations pertaining to implementation.

First, the province should offer financial incentives to landowners targeted to assist with implementing water quality improvement projects. A provincial and federal commitment to financial and technical assistance programs will ensure clean water for public health. These programs must provide a long-term commitment to effective delivery and support existing rural water quality programs as well as new initiatives.

Second, educational programs are critical to increase the awareness of the impacts of agricultural practices on water quality as well as to affect management changes to protect water. The current environmental farm plan, which is the established educational tool, could be improved by incorporating watershed characteristics into the risk assessment.

Lastly, we feel the province should build on the expertise and experience of conservation authority agricultural extension programs rather than create new programs. Conservation authority agricultural program delivery and development already involves partnerships with the Ontario Federation of Agriculture and other agricultural stakeholders as well as provincial and municipal governments.

Conservation authorities can play a key role in nutrient management. Already conservation authorities deliver extensive local stewardship and watershed management programs. It only makes sense to discuss where conservation authorities could be cost-effective delivery mechanisms in specific areas consistent with their other watershed programs.

As well, conservation authorities can provide valuable input into nutrient management plans, agricultural best management practices, and other regulations based on their broad experiences delivering watershed and agricultural stewardship programs across Ontario.

In conclusion, Conservation Ontario looks forward to further consultations, along with all other stakeholders, on the development of the regulations to ensure efficient and effective implementation of this program and, most importantly, the protection of our valuable water resources. A healthy environment is the cornerstone of a healthy agricultural economy.

The Acting Chair: Thank you very much. That appears to leave two minutes per caucus. We'll start with the Conservative caucus.

Mr Galt: First, thank you very much for your presentation and thoughtful comments in here. A lot of what you're addressing we are addressing as well.

I'll just go right back to the very opening, where you're identifying things like sediment, pesticides, and pathogens to water.

I think, in terms of sediment, in this bill there is the ability to require the fencing of streams etc, which should help with the sediment. You may have some other thoughts there.

Pesticides: I think that's already being pretty vigorously monitored. There's a tremendous reduction in pesticides being used in the agricultural community today and setbacks etc for that. You may like to have more comment on that.

Certainly pathogens to water, with the setback requirement, working it into the soils to prevent the runoff—the intent of this bill, to not put on winter spreading, that kind of thing, should be covering it.

You comment on septic tanks. I am very empathetic to that. I think that point is well taken.

If you want to respond to some of those comments, I'd be interested.

Mr Krause: Perhaps I could ask Tracey, who is our technical person, to respond to some of those comments.

The Acting Chair: The response is going to have to be brief because we only have 30 seconds.

Ms Ryan: I guess there's a wide number of best management practices that just need to be recognized around all the different possibilities: things like buffers along watercourses; as you mentioned, fencing in particular situations. Around pathogen best management practice, perhaps, as we've seen in New York, winter spreading in certain situations may actually reduce pathogens.

I think, from the viewpoint of looking at all those best management practices from a scientific point of view, perhaps they can be given regard in the act.

Mr Peters: It's pretty obvious, as we are embarking now on day three, we're hearing a lot of common themes. Tracey was with us yesterday in Caledonia. We're heard from all three presentations the need for scientific research to be done etc.

Is there some merit in potentially looking at—you know, we've got sandy soils, loamy soils. Should we maybe look at, whether it's scientific research or subjective—and I'm just thinking out loud, I'm not saying that this should be, but take some examples of new and expanding operations and subject them to an environmental assessment hearing. Would that give you the scientific research you need? Would it satisfy the cattle feeders and the first presentation? How do you see us conducting this research? What's the best way to go at it?

1040

Mr Krause: Certainly an environmental assessment would be a helpful tool with respect to gathering of data to help in terms of information and to assess whether or not a particular activity could be substantiated in an area. Part of it is understanding where the local aquifers and watercourses are, how close one should be to floodplains and so on. Part of that discussion or knowledge is understanding where the aquifers are, what the impact might be, the drift, if you will, of the contaminants to the water, the time passage and so on. Yes, it would be a

good start having an environmental impact assessment done.

Ms Churley: Thank you for your presentation. One of the questions I asked the committee to request the minister to get back to us on was around two issues. The government has finally announced that there is a groundwater study going to happen. The other thing, of course, is that the Walkerton inquiry is going to come forward with its decisions and recommendations in the next few months. I'm just wondering if you have an opinion as to whether or not this government should move forward with regulations and legislation before we hear the results of both of those bodies.

Mr Krause: Certainly the results of those bodies would be helpful before going ahead with some of the regulations. I would certainly encourage more information from those particular inquiries that are ongoing and the conclusion of some of those. That would certainly help. In the groundwater studies, the \$10 million that has been awarded to municipalities, in conjunction with conservation authorities, will be a good start as well in terms of gathering further information and scientific data.

The Acting Chair: Thank you very much for your presentation.

RURAL ONTARIO STEWARDSHIP ASSOCIATION

The Acting Chair: Could we ask Ian Goudy of the Rural Ontario Stewardship Association to come forward, please. Your association has been allocated 15 minutes. You can take as much of the 15 minutes as you want to make your presentation. If any time is left over, that's available for members of the committee to ask questions. You've given us one copy of a very substantial brief, which will be copied and given to all the members. We ask each of you, for the purposes of Hansard, to identify yourselves for the record and then please make your presentation.

Mr Ian Goudy: I'm Ian Goudy. I'm a farmer in Middlesex Centre.

The Acting Chair: Could I ask the gentleman with you to identify himself for the record, and then we'll give you the floor and you can present.

Mr Charles Hayden: I'm Charles Hayden, a retired water well driller and now a farmer in our area and a member of ROSA.

The Acting Chair: Thank you very much. Please proceed.

Mr Goudy: As a member of ROSA, I've been trying to make sense of changes toward the intensification of the livestock production in rural communities. For the past three years, we as a group have tried to raise government and public awareness about the environmental and social impact of this approach to raising livestock animals. We were first involved with the Biddulph township case in which the Normal Farm Practices Protection Board overturned a municipal bylaw

because it was deemed too restrictive on the farmer involved. We made presentations to a legislative group in previous consultations on future regulations of intensive livestock production, and recently we were involved in a court case over a building permit being issued to a landowner for an intensive barn in what we feel is a residentially restricted zone. The judge in this building permit case ruled against our side in deciding that "properties designated residential" in the MDS2 guideline means only a cluster of four houses. This process has been very costly both financially and in terms of the time invested by those directly involved.

I would add to this that we have been on the side here of going slowly. We're not a group that really sees the validity of this intensive livestock going ahead. When I look at Bill 81, there isn't a whole lot in Bill 81 that shows our side is even being listened to.

Despite all of our efforts, we have always realized that consultation with farmer groups such as ourselves, the Ontario Federation of Agriculture, the Ontario Farm Environmental Coalition and other livestock organizations is fruitless when dealing with groundwater contamination. Farmers have a sense of what is right and wrong with how our farms are operated, but we clearly do not have the knowledge and objectivity to really understand how we impact what lays below the surface of our farms and how the wastes we produce impact the water that we rely on. Although the smaller livestock operations of the recent past still had the potential to damage aquifers and the environment at large, this potential is miniscule when compared to the damage that could be caused by one simple mistake in a much larger, more intensive operation. The risk of environmental disaster has far surpassed the abilities of the farming community.

If your committee wants to make this legislation meaningful, we suggest you listen to the many experts who presented evidence at the Walkerton inquiry, and the booklet I gave you there has some of the cross-examination in it. It has a statement in it put forth by the Sierra Club that's a proposed framework for managing the impact of agriculture on groundwater. Senior OMAFRA staff admitted at the Walkerton inquiry that nutrient management plans will not protect the groundwater from being polluted by livestock waste, and the OMB has said that minimum distances between barns and residential properties as outlined in present guidelines are inadequate for this purpose. It is our view that Bill 81 can only accomplish its intended goal if it mandates regulations which require farm-by-farm geological testing and constant groundwater testing in addition to mandatory nutrient management planning.

I'd like to read to you a bit of transcript from the Walkerton hearing. I guess we all understand that Bill 81 is based mainly on mandatory nutrient management planning. The first piece I will read to you is from the cross-examination of Randy Jackiw, a senior OMAFRA representative who testified at Walkerton. He is currently the director of resource management responsible for the

development and implementation of OMAFRA's current nutrient management strategy.

In the cross-examination, one question was put to him: "The risk management which the province proposes to implement by regulation under the draft Nutrient Management Act, 2001, is simply making mandatory that which is now voluntary in best management practices, environmental farm plans and nutrient management plan?"

His answer was yes.

"From the commencement of development of nutrient management planning in 1995, it has been primarily focused on the nutrient requirements and take-up capacity of the crop grown?"

"Yes."

"All the variables that Dr Goss told us about, like the waste water table and like the subsurface geology and like all those other variables, are not any part of nutrient management planning in Ontario today?"

His answer to that was, "We are not there yet."

1050

There are some pieces from Dr Goss's cross-examination. He is the chairman of the land stewardship of the University of Guelph. Under his cross-examination:

"In Ontario, we don't have a systematic approach among the various layers of government to effectively regulate manure management activities in the province?"

His answer was yes.

"MDS is only intended to address land use conflicts and odour complaints; it doesn't have any relevance to groundwater protection?"

His answer was yes.

In his own statement, Dr Goss says, "Nutrient management planning is not specifically designed to deal with pathogens and manure."

A final statement from Norman West of the MOE, under cross-examination:

"But for the exemption provided under the EPA and regulation 347, manure does have the same potential as other regulated waste to cause adverse effects in the environment?"

His answer was, "That is correct."

My final little piece here is testimony from Randy Jackiw of OMAFRA, a reference to special precautions being required in connection with the siting and designating of earth and manure storage to prevent bacterial contamination of groundwater, and then it lists a number of factors which should be considered relating to hydraulic conductivity of the soil depth to the water table, depth to the bedrock, location, field tile etc.

"Would you agree with me, Mr Jackiw, those same factors as they are listed here in the guide should be considered whenever manure may be released to the environment?"

His answer: "Academically, but I think that there's a long way to get to the point where we understand. That's why I referred to this whole process as continuous improvement. You know we are looking, with the

university, on trying to get better nitrates. For example, as we understand more and more and as we understand better how some of these things move through the soil, the nutrient planning will continue to get more sophisticated."

The question to Mr Jackiw: "Would you agree with me, Mr Jackiw, then, in whatever context manure is being released to the environment, whether that's through a storage facility or whether that's through spreading, that it raises the same potential for bacterial contamination of groundwater and therefore similar precaution would be appropriate?"

His answer: "Any material applied to the land has risk at the end. The whole point around agriculture is the responsible use of that resource. Agriculture does use resources and there are impacts."

The next question: "Yes, and the guide specifically recognizes that, at least in connection with storage, it would be appropriate, then, to undertake this sort of investigation as recommended there with respect to hydraulic conductivity, soil depth etc?"

"Yes, sir."

The next question: "And that same type of investigation would be appropriate wherever you have a similar risk as a result of release of manure to the environment. Correct?"

His answer is yes.

What he is admitting is that nutrient management plans are good for what happens to the nutrients but they do not address the pathogens.

The bill as it stands today does not address all of the issues. If it goes through as it stands today, sometime down the road we'll likely see another Walkerton. This bill does not give any power to the municipalities, as the people recently heard before said, and it really doesn't indicate what minister is in charge of the environmental regulations. It doesn't mention the MOE.

All I can say is that we as a group have been through hell trying to get our message across in the past three years. I don't want to see farming restricted, but I want to see farming that's responsible. This bill does not make that happen, and I feel it's up to the people who are in charge of writing this bill that it be done properly.

The Acting Chair: Unfortunately we are out of time for questions, but thanks for your presentation.

COUNTY OF OXFORD

The Acting Chair: Could I call on Bill Semeniuk, county of Oxford, to come forward, please. You have been allocated 15 minutes. You can take up as much time as you'd like with a formal presentation. If any time is left after your presentation, that's available for members of the committee to ask questions. I wonder if before you start your presentation you could, for the purposes of Hansard, each identify yourselves, please.

Mr Bill Semeniuk: My name is Bill Semeniuk. I'm the Oxford county councillor.

Ms Marg Evans: Marg Evans, senior policy planner, county of Oxford.

Mr Jim Walton: Jim Walton, chair of the agricultural advisory committee for Oxford county and a farmer.

Mr Semeniuk: OK, thank you very much. You have before you our written submission. This was prepared by our county's nutrient management committee and the agriculture advisory committee, and also endorsed and submitted by Oxford county council.

The county of Oxford believes that the Nutrient Management Act should be administered by the Ontario Ministry of Agriculture, Food and Rural Affairs. One of the questions we had in our review of the new legislation reflects the effects of the bill on our ability to regulate land use. For example, under the Municipal Act, municipalities can pass a bylaw regulating the location, direction and use of barns and manure pits. Will this provision be removed? If so, how will this issue be addressed in the bill or in the regulations? Municipalities have concerns over losing this bylaw-making power as it is one of the tools that we have to protect resources like groundwater and sensitive environmental features.

The county of Oxford has undertaken a comprehensive groundwater protection study at a cost of over \$800,000. In this study, we have identified capture zones for the county's 83 municipal wells and have undertaken a vulnerability assessment of aquifers in the county. Many of the capture zones extend into farming areas and across municipal boundaries. The study has shown that about 42% of the county's land area is highly vulnerable to contamination by surface activities. In most cases, this means that the aquifer is shallow and is overlain by permeable materials. It is very important to manage surface activities in these areas. The county of Oxford is in the process of developing official plan and zoning policies and regulations to protect our groundwater resources. These may involve controlling or restricting certain types of operations or activities near municipal wells or within highly sensitive aquifers or environmentally sensitive areas. Bill 81 makes reference to requiring geophysical studies and specifically references groundwater flow. How will these studies be used? We believe the new act should not interfere with municipal planning powers in regard to the regulation of land use.

Section 60 of Bill 81 provides for a local bylaw to be superseded if a regulation under Bill 81 pertains to the same subject matter as the bylaw. Will the municipalities be required to repeal a nutrient management bylaw? Will municipalities be permitted to regulate the same subject matter on farms not covered by the regulation under Bill 81; for example, smaller farms with less than 150 livestock units? Will municipalities be permitted to regulate the same subject matter over and above the regulation set by the province? It is important that these details be clarified for municipalities to minimize confusion.

1100

Bill 81 defines nutrients. The county of Oxford believes that the land application of nutrients is an

appropriate means of managing these materials. With respect to septage, it is important that there is sufficient capacity available for pretreatment prior to land application. If the province expects municipalities to provide this capacity in municipal sewage treatment plants, compensation is in order. Many plants do not have the capacity to immediately take on septage, so there needs to be a period of time to gear up and financial compensation to cover capital costs associated with plant expansions. The province has to be careful in how this pretreatment requirement is managed, because municipalities do not want the burden of dealing with midnight haulers taking septage out and dumping it to get rid of it.

The county of Oxford supports the concept of NMPs for our municipal sewage. We in Oxford have been trying to get funding through the healthy futures program and the federal Green Municipal Enabling Fund for a year just to do that. We believe that nutrients from biosolids should be managed using the same tool, the nutrient management plan, as nutrients from any other source.

The province should take care in developing an adequate land registration system, one that will track all land-applied nutrients and that will accommodate inter-municipal flows of materials. Currently, municipalities often land-apply biosolids outside of the jurisdiction where they're generated. Tracking of this application by the Ministry of the Environment is not done well. The MOE does not use a geographic information system to track this information.

The county of Oxford has developed a land-based tracking system on our corporate GIS for manure-generated nutrients. We plan to extend this system to track biosolids, and this was part of our funding proposal.

It is important that one integrated tracking system be developed for all materials containing nutrients. The county believes that this is appropriate to make the land registry available to the public. Further, such a registry system should be Internet-enabled to permit farmers and others looking for land to tell which lands are tied up in NMPs or strategies. However, the county does not believe that information and data in NMPs should be made available to the public. Only a summary sheet on basic information from NMPs needs to be available to the public in addition to the land registry information.

The bill provides for regulatory powers to specify standards for size, capacity, location and construction of buildings or structures used to store nutrients. Due to the concerns relating to groundwater protection, the county is anxious to see regulations that protect aquifers and wellhead protection areas. In Oxford there has been public concern regarding the storage of liquid manure in a sensitive groundwater recharge area. Short of outlawing nutrient storages altogether in these areas, appropriate sizing and locational criteria, impermeable construction materials, runoff storage capacity and state-of-the-art contingency plans need to be in place to minimize risk to water supplies and aquatic habitat.

Bill 81 makes reference to the issuance of a certificate once a farmer has complied with the act and regulations. As part of the approval process, county staff should be circulated for information during the approval process of an NMP affecting lands within or adjacent to the county.

Using our corporate GIS, we can generate maps showing water-related information as well as data on other land uses, sensitive environmental features, environmental constraints such as slope and flood lines. All of this information is readily available and relevant to the approval of the NMP.

The county of Oxford concurs with provincial enforcement of this act, provided resources are adequate. The province needs to do a better job of enforcing Bill 81 than it does offences relating to spills or discharges to streams under the EPA. The public in Oxford has lost confidence in the MOE's ability to enforce environmental legislation.

Once NMPs are in place, the county believes that a system of random audits would be an effective tool to encourage compliance with the new act and regs.

Bill 81 also provides for appeal rights for NMPs. The county believes that municipalities should be permitted to be a party to an appeal of an approval or certificate issued under the new act to a tribunal or to the minister where the municipality has reason to believe that the operation may cause a detrimental effect to either public health or the environment.

Oxford county has an agricultural advisory committee to deal with complaints pertaining to an operation that has a registered NMP. This committee is composed of 10 producers and two county councillors. There are protocols set up for the AAC to act within a very short period of time once a complaint is received by a township. The AAC provides a friendly approach to reviewing NMPs and solving problems in a non-threatening manner.

Bill 81 has a provision for regulating the establishment and operation of local committees to assist in mediating disputes. Does the province anticipate using existing committees for these purposes? What body will assume the liability relating to the recommendations and advice of such committees? The county believes that local people will work most effectively to handle local complaints, rather than people who are not local to the area and not familiar with farming operations and the community.

Section 55 of Bill 81 provides for the minister to enter into agreements for certain services. Among them is a land registration system for tracking the land application of nutrients. As I said before, the county of Oxford has developed a land registration system on our GIS and we have an interest in continuing the development and use of this system. Any registration system should be compatible with the existing system within the county of Oxford. We would be interested in assisting in the development of a larger system for land registration through an agreement with the minister and with adequate compensation.

Oxford county believes that financial compensation should be provided to both farmers and municipalities requiring nutrient management plans or strategies to offset the costs associated with the development of the plan and implementation. There is a distinct societal benefit associated with the nutrient management plan, and these costs associated with this societal benefit should be shared by society. The province needs to ensure that the outcome of this legislation is desirable. If the result of the legislation is that smaller operations go out of business, is this a desirable outcome? Offsetting compensation could ensure that undesirable outcomes are kept to a minimum.

With that, I thank the committee for hearing our presentation and would accept any questions.

The Acting Chair: That appears to leave one minute and 30 seconds per caucus, and we'll start this time with Mr Peters.

Mr Peters: Obviously, Oxford has been a leader in what you've been doing. How far along is Oxford compared to other counties in this province? Would you be the true leader in Ontario or is there somebody who has taken this issue further than you have?

Mr Semeniuk: We started the process—as you have seen in our documentation, we passed five similar bylaws in all rural municipalities in 1999. Previous to that, it took a little over two years to establish. We were probably one of the first. Marg can elaborate further. In our initial front page you'll see that the University of Guelph has used our paper and used the criteria we have in our own nutrient management bylaws as a benchmark for other municipalities in Ontario.

Ms Evans: I think that explains it. We were one of the first. We feel we've got one of the most comprehensive bylaws. We've shared our bylaw with any municipality that has requested it, both east and west of Oxford county. It's been emulated in several different municipalities. So we feel we've set the standard in some instances. We've had a very strong relationship with the local Ministry of Agriculture engineering staff and they have been a great assistance to establishing our bylaws as well.

Ms Churley: Thank you for an excellent presentation. You've got a lot of information into one small document. It's quite interesting.

You asked the question, will municipalities be required to repeal a nutrient management bylaw? The answer is yes, as it exists now; that this law, once it is passed, will supersede any bylaws around this. My question is related to that. I think that's going to be one of the more difficult issues for the committee because many from the farm community support the government's endeavour for the law to supersede the municipality, yet we hear that municipalities and some other smaller farm groups want the municipalities to have that power. Is there any compromise here, do you think?

1110

Mr Semeniuk: That's probably a million-dollar question. It's one we have grappled with at both our

committees. We feel that definitely there should be some parameters set. We have difficulty in terms of the Planning Act and who is going to make that call. Is the province going to make the call that you're going to repeal Oxford county's nutrient management bylaw, and at what level?

The Acting Chair: On that note, I'm going to have to turn to the government caucus because we are out of time.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): Thank you for your presentation. How many municipal sewage treatment facilities have you got in Oxford county, roughly?

Ms Evans: Roughly just under 10.

Mr Beaubien: How many of those would be equipped with tertiary treatment facilities or capacity?

Ms Evans: None.

The Acting Chair: Further questions from the government caucus?

Mr Galt: I just wanted to compliment you on the GIS program. It's just excellent. Maybe we will be looking very closely at it. Thank you for the presentation.

Mr Semeniuk: We appreciate it.

The Acting Chair: Thank you very much.

ONTARIO CORN PRODUCERS' ASSOCIATION

The Acting Chair: Perhaps I can call on Don McCabe of the Ontario Corn Producers' Association, please. Could you come forward. You have been allocated 15 minutes for your presentation. If you don't use the full 15 minutes for the presentation, that time is available for members of the committee to ask some questions. Perhaps you could identify yourself for the purposes of Hansard, and your other presenter could do the same, and then you can go right to your presentation.

Mr Don McCabe: Don McCabe, Ontario Corn Producers' Association.

Mr Ken Hough: Ken Hough, on staff of the Ontario Corn Producers' Association as director of research and market development.

Mr McCabe: I'd like to thank the committee for the opportunity to be here this morning, over from the Lambton county line. I'd like to proceed by just highlighting the executive summary, first of all, and then delve back into some more points in a little more detail as time goes on.

As is evident from the room this morning, there are some recurring themes that have to be addressed here. The first one we wish to touch on is that full consultation is required with the development of regulations. We have a framework right now to hang them on but the consultation process is of the utmost importance—the framework that has been developed.

We thank the committee for its efforts in listening to the Ontario Farm Environmental Coalition, which brings together 40 commodity-based groups to address concerns from the stakeholder perspective, and we hope this

consultation will continue in the future to ensure that the stakeholder is ultimately involved in everything that has to occur here.

Second, the principle of science-based nutrient management plans is fully endorsed by OCPA. We concur that cash crop farms need to be treated distinctly from livestock operations. However, with that said, I wish to point out that the 21,000 members of the Ontario Corn Producers' Association, including yours truly, do not just grow corn for a living. They have diverse operations and we will have livestock operators within our members. Therefore, we wish to make this as comprehensive and engaging as possible to ensure the needs of all our stakeholders.

The proposed five-year phase-in period is pretty ambitious even for government. This time frame immediately draws out the need for additional funding to be brought to this area, especially in the area of research. Best management practices are based on sound science, particularly with regard to nitrogen fertility management in corn and other crops, but nitrogen is an extremely mobile element in the environment and we have lots more work to do there yet. Therefore, before regulations become entirely encompassing, we have to address this need to a greater fashion.

With regard to a lead ministry, who should be in charge? OMAFRA. Reasons will be developed as we move along. From this perspective, enforcement of this act must reflect the intent of the act and must be conducted by appropriately trained personnel, which leads us back again to OMAFRA to be the suggested appropriate ministry.

If we are to pull all this off with regard to the research needs, making sure the personnel and the infrastructure are in place, this requires adequate new fiscal resourcing. It means that if society wants this, society needs to come to the plate with the money that's necessary.

Moving on to the flexibility issue in nutrient management plans: as this committee has the opportunity to travel across the province on its hearings, occasionally I hope you get the chance to look out the window and realize that things are a little bit different as you move across. Some places are flat, some places are rolling, some places are sandy, some places are good, old-fashioned clay and you need a brace and bit to plant a Dutch set. With that in mind, we have to address nutrient management plans with flexibility to the areas in question.

Provincial authority is welcome by OCPA to provide a consistent nutrient management policy over a patchwork of local bylaws. However, provincial legislation and regulations may need to be expanded to encompass pathogens, as we've heard here already today. I would extend that to other possible contaminants such as heavy metals. With regard to biosolids, this is where the encompassing of all nutrient sources has to come to bear within this act.

The treatment of all nutrient generators must be equitable. We've heard that theme here also.

The clarification of the scope, role and intended use of the proposed electronic nutrient management plan registry is also a concern to OCPA. It has been touched on here briefly. From our perspective, it needs to be an information registry only, not a police-type document.

Finally and most important, on the overall scheme of this, the economic impact of the proposed act and regulations on Ontario farmers must be considered, and remuneration needs to be considered for some of the imposed costs, especially where those add a significant burden to the farm operation. To put it bluntly, when you put a dollar in a farmer's hands, you're going to get seven bucks back, and two bucks of that are going to the government tax. When we get a dollar, we don't know how to hang on to it.

We're back to the wall right now with regard to what margin is left. I can reiterate the statement that society is extremely well fed and worrying about the environment it lives in, and so it should. But society also has to step up to the plate and take responsibility for its wants.

I'm coming back to highlight the most important points of the OCPA brief in front of you.

Full consultation. We fully expect and demand that the regulations that will come down be practical and reasonable to implement and, to ensure there is the buy-in by the farming community, that there be regular, ongoing consultation among the key stakeholders, which are not only the farming community but regulators, government and others who may feel the need, to make sure that this package comes together for all so that we'll be able to work and live within.

The timelines of this legislation within the proposed five-year period make it an extremely difficult row to hoe when it comes to the science-based approach here. We don't have all the answers yet with the research and therefore this will be a moving target as time goes on. Research is required. Research is required to be done with the stakeholder community intimately involved. They have the questions and will help the researchers to find the answers if given the opportunity.

1120

With regard to the lead ministry, OMAFRA is the absolute choice here because the predominant activities within this ministry will shine through within this act. The outreach awareness activities that will be necessary with other rural residents on nutrient management issues are also a part of the rural affairs mandate of OMAFRA.

Where it is necessary to bring in a high-calibre specialist for an environmental concern, that's where the Ministry of the Environment should be turned to. In general, OMAFRA can handle the job and develop and bring through the necessary constraints.

The enforcement issue: I'm touching on it again with the fact that we have no issue with regard to enforcement. OMAFRA has to be the front line but the MOE needs to be brought in for the stronger issues.

All this still comes back to the need for adequate fiscal funding. We cannot do this without adequate buy-in of the government to ensure the research is done, the

personnel are in place and the infrastructure is there to be able to accommodate all the needs that are here.

Finally, I want to stress the flexibility issue. Again, as you criss-cross the province here, take time to take a look at what you're about to throw regulations at. We have a lot of variations out there. We also have a lot of common sense out there. I have to stress that a PhD does not necessarily come with a major or minor in common sense. Therefore, we have to ensure the buy-in of the stakeholders and the flexibility that is necessary to achieve those ends.

With those comments, I thank the committee for the opportunity to present and I welcome any questions.

The Acting Chair: Thank you very much. We have one minute and 30 seconds per caucus and we'll start with Ms Churley.

Ms Churley: There is never enough time to ask adequate questions, so I'll just follow up on a question I asked previously. How do you see the role of municipalities which, as everybody will admit, know their area, their jurisdiction, better than the province does? How do you see their role, especially given that the legislation says this will supersede any bylaw of a municipality?

Mr McCabe: The issue with regard to municipalities means that you have to get it back to the actual stakeholders, because "municipality" is still a very wide-open, dynamic statement.

The former county of Simcoe, as I would call it, is now predominantly urban. Therefore, when we're down to one and half per cent of the population which actually has to make its living doing this job of feeding the nation, those are the stakeholders who have to have the greatest say at the municipal level because they actually have to live this, as opposed to conflicting needs of well-meaning folks who really don't have the issues clearly delineated or available to put the proper regulations in place for the municipality.

I fully support the need for local advisory committees that have been fully developed from the perspective of expert folks from the surrounding area and, wherever possible, without a political agenda to grind.

The Acting Chair: On that note, we'll turn to the Conservative caucus.

Mr Galt: Thank you for your presentation. You may consider it a bit of a loaded question, but I'm curious: having been on the road and consulting for two years on this, when we started approximately two years ago, as I recall, the position of the corn producers was more, "Not us; it's the livestock producers that should have to have the nutrient management plan. Corn producers should be exempt or croppers should be exempt."

I'm very empathic and support the direction you're coming here. I'm just wondering, why the change? Or did I misunderstand the direction two years ago?

Mr McCabe: You did not misunderstand the direction two years ago, sir, and it is not a change in policy directly from OCPA with regard to a pure cash crop farmer. They've been doing nutrient management plans every

year and they especially did one this year with the absolutely horrid prices that we're dealing with and below cost of production. Economic feasibility is the utmost, and when all your fertilizer is bought in as a commercial source, you're already doing a nutrient management plan.

Mr Galt: Certainly. Thank you, Chair.

The Acting Chair: Further questions from the government caucus? Mr Peters.

Mr Peters: I'm just trying to understand. You talk about the distinctiveness of the corn producers. You also say that your members aren't solely cash crop farmers; there are some who also have livestock. Can you give me a breakdown of what percentage of your members would be strictly cash crop versus those who may be diversified with some livestock as well as their cash crop?

Mr McCabe: I would say the numbers I'm about to give are cast in water: 60% of the corn that's grown in Ontario is used within the livestock industry. With regard to the exact membership, 30% of the grain that is currently put through safety net programs designed within Ontario is farm-fed so, therefore, it never leaves the farm. It is used on farm for livestock production. That's the best I can offer at this point in time.

Mr Hough: If I could just add to that: the Ontario Corn Producers' Association receives their funding through check-off on commercial grain sales, but having said that, that doesn't represent all corn producers in Ontario. Not all corn producers sell corn commercially, specifically livestock guys that grow and feed their own. Having said that's where our funding comes from, we still try to serve the needs of all corn producers in Ontario.

The Acting Chair: On that note, perhaps I can thank you very much for your presentation.

CRAIG CONNELL

The Acting Chair: Can we ask Craig Connell to come forward, please? Mr Connell, you've been allocated 10 minutes for your presentation. If any time's left after your presentation, that's available for members of the committee to ask you questions. Please proceed.

Mr Craig Connell: My name is Craig Connell. I'm pleased to have this opportunity to make this presentation to the committee as you hold consultations on Bill 81, the Nutrient Management Act.

I, along with my wife and my son, operate a 1,400-acre livestock-based operation producing 1.8 million litres of milk per year. We also operate a 750 head feedlot. We have 10 employees.

We farm in the municipalities of Middlesex Centre and the city of London. I also represent this region as board member of the Dairy Farmers of Ontario. I make this submission today as an individual. The Dairy Farmers of Ontario will make a formal submission at a later date, in Kemptville, I believe.

This is the third year we have been operating under a nutrient management plan. I hope and expect that Bill 81

will take care of the problems and frustrations that we have had to deal with.

I should say that I fully support the principle of nutrient management plans and in fact would like to see them implemented sooner than three years on the livestock units that are abusing the situation at present. Every municipality has a few undesirable situations.

I feel strongly that the Nutrient Management Act should be administered by OMAFRA and they should handle the advisory and audit aspect of it. The Ministry of the Environment should only be involved in the inspection and enforcement if pollution has occurred or is likely to occur.

Our farm has had an example of how it should not be handled. One of the first contacts we had with any person from our township in regard to the plan was when a fellow walked into our farm office and proudly declared he was the nutrient management bylaw enforcement officer, that we were in contravention of the bylaw and we had to cease spreading manure immediately on a property that we had farmed for a number of years.

We attempted to explain that according to the consultant we had hired to develop our nutrient management plan and the OMAFRA engineer who verified the plan for the township, we were not in contravention. We showed him the crop records and soil sample results for the last five years of this farm. When he looked at the reports, it was obvious he understood them as well as I would understand a report on nuclear fusion.

1130

We must have people who are knowledgeable in all aspects of farming operations to administer and advise on the implementation of this Nutrient Management Act. I must add that in the 20 years we've farmed at our present location, we have had no problems with the Ministry of the Environment or infractions, no pollution problems whatsoever.

I would ask this committee to address my concerns that the Nutrient Management Act cannot be circumvented by the application of another act at the municipal level. This act, above all, must be administered on a provincial basis. The situation at present makes no sense at all. In our own situation, we can do one thing on one side of the fence and something different on the other side of the fence. We must have uniformity across the province. I am sure this committee is well aware of the fact that the interpretation and decision of a local municipal building inspector or officer can only be appealed through the civil court system, which is both costly and time-consuming.

Saying this, there is a need for flexibility. As the corn producer representative said before, there are different situations across the province: different land types, different operations. It makes quite a difference if you're running, say, a hog operation on a heavy clay farm and growing all corn and beans—you've one opportunity a year to spread manure—whereas, with a situation such as ours, we have varying land from sand to clay. We grow

various crops, from alfalfa to wheat to beans to corn. So there are variabilities within each individual plan. I think it would be wrong to just say that this is it for the province. There has to be flexibility within each individual plan.

I do not believe it is in anyone's interest to have a full nutrient management plan a public document. Only verification of compliance and a brief summary of the individual nutrient plan should be public.

In conclusion, I am in full support of the Nutrient Management Act and appreciate having the opportunity to comment on the act today, but I see an increasing need for the stakeholders to be involved in the discussion prior to the creation of the regulations. The Nutrient Management Act and the resulting regulations will only be a success if the farming community buys into the idea and supports it. The individuals involved in the administration of the Nutrient Management Act at the individual farm level must have the ability to communicate and implement the regulations professionally. My comments are made with the assumption that this legislation is designed to regulate the amount of nutrients that are applied to agricultural land for the production of crops and as a safeguard to our water supply, not to appease some people who would like to control the future development and viability of agriculture in this province. This act must not be used as a weapon against the farmer.

I appreciate this opportunity to present my views and would be pleased to answer any questions. Thank you for your time today and I look forward to being able to contribute to the development of the regulations under this act.

The Acting Chair: That leaves us one minute per caucus. We'll start with the Conservative caucus.

Mr Beaubien: Thank you for your presentation this morning. In your last paragraph, you mention, "The Nutrient Management Act and the resulting regulations will only be a success if the farming community buys into the idea and supports it." Nutrient management deals more than with just the farm community. I asked the representative from the County of Oxford how many municipal sewage treatment plants they have in their community. None of them have tertiary treatment capacity. When you spread the sludge from the municipality on to land, there is some potential with regard to metal, heavy metals, pathogens and all that. How do you respond to this?

Mr Connell: I realize there are other sources of nutrients than farming. I only dealt with the farming because that's what I'm involved in and that's what I have some knowledge in. But more certainly, the sewage systems and the disposal of the sludge must certainly be looked at.

We also farm right beside 402. After a dry spell, if you see what washes off of 402 in a heavy downpour, that's maybe something that should be looked at as well. So there are all different sources to look at.

The Acting Chair: Perhaps on that note we can turn to Mr Peters, because we're out of time.

Mr Peters: Craig, don't run away after the meeting. I need to talk you about a DFO issue.

From a DFO standpoint and the farmers you have come in contact with in this area in dealing with the dairy industry, with what you know and what you've seen in Bill 81 and what we don't know yet in the regulations, what's the impact going to be on farmers in the Elgin-Middlesex area, the ones you're representing? Is it going to be easy for them to comply or is there going to have to be a lot of work to do?

Mr Connell: If it was to come into place tomorrow and everybody had to comply within six months, 50% of the dairy producers would quit. Every dairy producer will have to have liquid manure handling systems. The larger units mostly have them now, but the smaller units do not have them. They would have to have liquid manure storage for barnyard runoff and manure runoff and for milk house wash water.

As soon as you get into liquid manure storage, you're looking at a minimum of \$75,000, probably up to \$120,000 or \$140,000. Over 50% of the producers are small producers, and if they were faced with a bill for \$100,00 they would quit tomorrow.

The Acting Chair: On that note, we have to turn to Ms Churley.

Ms Churley: Thank you very much for your presentation. I loved your comment that this inspector understood it as well as you would understand a report on nuclear fission. I come from Newfoundland and a lot of fishermen have told me the same thing, when officials come from Ottawa to tell them what to do about the fish. So I fully appreciate that comment.

How do you see the consultations unfolding? I assume that you're asking us today to make sure that you and your organization are involved in those consultations.

Mr Connell: As we get into the nitty-gritty and how it's actually going to play out at farm level, I think it's only right that the farm organizations and any individual farmers have the chance to comment and make suggestions.

I would sincerely hope that's the way it goes. Not to say that this committee is not capable, but I'd be very disappointed if this committee just sat down and wrote all the regulations. I think there's room for consultation right down to the farm level, but everybody needs to be involved.

The Acting Chair: Thank you very much for coming. We're out of time.

COMPOSTING COUNCIL OF CANADA

The Acting Chair: Can I ask Susan Antler of the Composting Council of Canada to come forward, please. Could we first ask you and your other presenters to identify themselves for the purposes of Hansard.

Ms Susan Antler: My name is Susan Antler. I'm the executive director of the Composting Council of Canada. I've brought three of our many members from Ontario

who operate composting facilities throughout the province.

Mr Rick Vandersluis: I'm Rick Vandersluis. I'm with TRY Recycling out of London.

Mr Trevor Barton: I'm Trevor Barton from the city of Guelph. I'm the Ontario regional chair for the composting council.

Ms Katie Alward: Katie Alward from Green Lane Environmental.

The Acting Chair: Before you start, I should advise you that you've been allocated 15 minutes for your presentation. If you don't use up the 15 minutes in your presentation, the rest of the time is available to members of the committee to ask questions. Please proceed.

Ms Antler: Super, thank you very much. We've provided you with a package and we just want to reiterate our summation in terms of the submission we sent to Mr Garland. Specifically, the composting industry in Ontario, albeit young, is very much a thriving industry, represented by municipal as well as private sector interests.

We are supportive of the involvement of the OMAFRA folks to help build the composting industry, because basically we need to have two feet in two piles; one in terms of waste diversion, which is where the Ministry of the Environment would get involved, and the other in terms of product utilization and the creation of end markets, which is where OMAFRA's experience would be. So we are thrilled that the time has come where we are able to talk to OMAFRA. The issue, though, is that we have not had a chance to talk with OMAFRA to date, and we understand there has been some consultation.

Our industry is implicated because of the definition of "nutrient" where compost is defined as one of the products. Basically we, as the industry which represents over 80 facilities in Ontario and processes 500,000 tonnes of organic materials on an annual basis, are implicated by your vision. We respectfully ask that we start to talk now in terms of how we build this industry, both from the perspective of waste diversion, as well as product utilization.

We see there are all kinds of wonderful opportunities and we're here hoping we can build together. First of all, what we very much want to do is make sure that everyone recognizes that we do need to focus on waste diversion. I know many of you are already focused on Bill 90, the Waste Diversion Act, in terms of what you will be coming up to in the fall, what the Ministry of the Environment is bringing forward, and also in terms of how OMAFRA can assist us in terms of end use and the development of relationships with end users. End users can be defined as farmers, the agricultural community, horticulture, silviculture, natural resources and municipal purchasing practices. The opportunity is very large in terms of building markets for compost. For us to sustain this industry, we definitely have to have both feet in the pile of compost.

1140

The other thing we have to make sure is that you install good, but not crippling, regulatory issues. The composting industry—again, 500,000 metric tonnes a year. I know, Mr Galt, you've been very involved with the composting council; Mr Peters, one of our much-cherished members of the council is a constituent in your area; and, Ms Churley, I know that you're very much supportive of environmental sustainability. We have an industry here. We have rules and we are willing to reflect your vision, but it's very important that we don't put on checks and balances that cripple our industry.

Our concern is that, because OMAFRA has yet to talk with us, perhaps they don't know what we're currently involved with. Our people are the Ministry of the Environment; we know them very well. We're very much looking forward to meeting and working with OMAFRA, but that has not happened yet.

Another opportunity in terms of helping to build this industry, and that's where this whole opportunity in terms of getting different ministries involved in the development of this industry comes at hand: to date Ontario has not accepted the Canadian Council of Ministers of the Environment's product quality guidelines. This is putting on severe restrictions in terms of developing markets for compost. Right now, it's a 1991 regulation that our facilities are working on. OMAFRA can help us move forward to get CCME guidelines accepted in Ontario. We certainly have the will and the composting facilities to help make that happen.

The other opportunity is over the last year, through the support of the Waste Diversion Organization, which you will be familiar with because of Bill 90, we've had the opportunity to start to scope out end markets. Today and for the next couple of days we're actually at Canada's Outdoor Farm Show, where we're trying to develop relationships with different agricultural communities. It's really essential for us to build the long-term sustainability of our industry in terms of developing end markets. That's where OMAFRA's experience, along with your counterparts across the country, can help us build this industry, for us to have a value-added manufacturing operation.

In terms of summary, we are supportive of OMAFRA. It's been a long time coming. We're looking forward to dating. We're looking forward to working together. We see there's an opportunity for us to work hand in hand with the Ministry of the Environment, OMAFRA, as well as other ministries which can help us build markets for compost. It's important for you to realize that there are a very large number of public and private composting facilities out there that have yet to be consulted on this vision. It's important for us to have a place, a home, in OMAFRA.

The Acting Chair: That would appear to leave two minutes and forty seconds per caucus. We'll start with Mr Peters.

Mr Peters: Any of you, and I guess I throw this open to anybody around today, if you're driving around St Thomas and you see big green boxes outside, this is all part of St Thomas's composting program which we initiated in 1994 for home composting. The city has been able to reduce by about 50% what it's putting into a landfill. It's been a great program and I'd hate to see it removed in any way. If you want to see a centralized composting facility, stop on Wellington Road just before you get to the 401 and go have a tour of Mr McCaig's Green Lane Environmental facility.

One of the issues, and I think it's important that you raise it, too, is that we need to not have government ministries working in silos, so to speak, and have one ministry understanding what the other is doing, which doesn't always happen. We need to see that happen. What things could you do? One of the issues that we're going to have to grapple with is the whole question of septage. Do we send it to a waste water treatment plant? Could septage be composted? Is that a way to deal with it? Biosolids are another example.

Another question is some of the leaves and that which are required, some of the MOE restrictions about hauling leaves to a site, then it could be designated as a landfill. Could you maybe outline some of the issues that need to be addressed?

Ms Antler: There are huge opportunities for us to be much more marketers of compost than we are right now. The whole industry has been focused on waste diversion, not in terms of value-added marketing and manufacturing. So the opportunity is to take a look at different feedstocks, and certainly anything that's organic can be composted. The key when you develop a composting facility or a vision is to understand what you're going to do with the end product before you start making it.

Where we need some help is in terms of defining different product categories for compost. Right now in Ontario, because Ontario is behind the times on not accepting CCME guidelines, there is one category for compost. If you fail to meet that category, you're considered a waste. So the first step that our political friends can do is accept CCME guidelines, because that will build up the opportunity for us to have different types of materials composted and used for different means.

The second step is to make sure we have the experts. We have Dr Calvin Chong and we have other folks who have been friends to the council and are members, but we do not have a strong presence within OMAFRA to help us define the vision in terms of products.

The Acting Chair: On that note, we're going to have to turn to Ms Churley.

Ms Churley: Thank you for your presentation and for the good work that you're doing. You're certainly far ahead of many other jurisdictions, including mine.

I wanted to ask you to elaborate a bit more on your concerns. This, of course, is broad-based legislation. Regulations are going to have a much bigger impact;

that's where the meat's going to be. What are your concerns with how it might impact on you?

Ms Antler: A couple of things. First of all, because we haven't talked with anyone for two years, we don't know the whole vision. We just found out through the back door that Bill 81 was coming out, and we saw that the definition of "nutrients" was in there, and all of a sudden it implicated an industry that had 500,000 tonnes it would process in a year.

The other opportunity is that we have both private and public, so private would be like Green Lane or TRY Recycling and public would be like the city of Guelph. We have composting facilities that have rules to operate under through the Ministry of the Environment. We certainly respect the needs of farmers, but we also want to make sure that the rules are on a level playing field in terms of management of the waste, in terms of management of the end products, so that it's fair to all.

Ms Churley: I think you're right. I never thought of this; I don't know about the rest of the committee. We should make sure that you're included in the consultations around regulations.

The Acting Chair: No further question from you, Ms Churley?

Ms Churley: No.

Mr Galt: It's good to see you again, Ms Antler. Thanks for the presentation and to the rest of you for being here. As relates to the consultation, that goes back to January of a year and a half ago. The issue then really was manure nutrients, and we were just looking at that point in time. It has kind of grown. Certainly your point on consultation is well taken, and as we develop guidelines and regulations, we'll be in touch, I'm sure.

Product categories: again, an interesting comment. I will relay that back to the Minister of the Environment.

The question I have for you has to do with pathogens and handling your compost. I know that a certain number of them are destroyed. Do you have up-to-date information if we use, say, cattle manure? We had this problem with E coli 0157. Would it be destroyed? Would cryptosporidium be destroyed, and so on, campylobacter, grdF?

Ms Antler: My understanding is that the composting process, because of the high temperature, does a fantastic job. We certainly can provide you with more information in terms of those who are working on it. We have composting facilities which are members of the council and are focused completely on manure management. We have facilities that are being built up in the high-intensive livestock operations in Alberta, where they're going in and not even charging for the management, but they are getting their revenue through the sale of the product, so they're addressing the pathogens through the composting process. But in terms of the technical information, I'd be pleased to get that to you.

If I could ask just one more thing: when you're going through Bill 90, if I could ask you to give severe and positive consideration to having the composting council as an observer status in the Waste Diversion Ontario

focus. Right now, the champions of organics are severely underrepresented in Bill 90. We, as the composting industry which represents about 40% of the materials going to landfill, are not given observer status. So if there is an opportunity you can provide us to get that, I would appreciate it.

Mr Galt: If I might, just for a half-second, one of the other presenters in Toronto expressed concern about carbon source and moving carbon to the composting centres to deal with manure. Any comment?

Mr Vandersluis: Carbon source being leaves and wood, which are also organic matter. Transportation would then become an issue if you needed 3,000 tonnes of leaves to do a high-intensity composting operation. Obviously no farmer is going to generate that sort of carbon. That means there's a transportation issue and there's going to be a cost issue then. I don't know who would handle that, whether it would be the farmer.

Mr Galt: Can all leaves be used?

Mr Vandersluis: Yes.

Mr Galt: Is there any limitation on toxicity from certain leaves?

Mr Vandersluis: No. TRY Recycling has been doing the city of London leaf program now; this is their fourth season. We've been producing compost through our process for those four years, and we have had no issues with any of the MOE guidelines or any product quality issues either.

The Acting Chair: On that note, I'd like to thank you all very much for your presentation.

That appears to complete the business of the committee for this morning, so unless there's any other business, I propose to adjourn the committee. The committee is adjourned until 1 o'clock this afternoon.

The committee recessed from 1151 to 1303.

The Chair (Mr Toby Barrett): Good afternoon, everyone. Welcome to this regular meeting of the standing committee on justice and social policy. We have an agenda before us dealing with Bill 81, the Nutrient Management Act.

I would mention as well, and I think I speak for all of us, that our thoughts are certainly with the victims in what's going on in the United States as of this morning.

MURRAY DELOUW

The Chair: Referring to our agenda, I wish to call forward the first deputation, Murray Delouw. We have 10 minutes for individuals. Please proceed.

Mr Murray Delouw: My name is Murray Delouw. My wife, Anita, and I have four children and we reside in Oxford county. We've run a family egg farm for the past 20 years. I appreciate the opportunity to speak to you here today on Bill 81.

Everyone around here can tell you how important this issue really is, not just in towns like St Thomas but among all local communities in Elgin, Oxford and Norfolk counties. In fact, Oxford county, as you heard this morning, has led the province in nutrient manage-

ment planning, as it was one of the first counties to pass a nutrient bylaw. So it's fair to say that people around here have a strong desire to protect our environment.

My reason for being here today is simple. As a family farmer, I have a vested interest in balancing agricultural production and environmental preservation. By doing so, and only by doing so, can my children inherit our farm. That's why my farm and many others around here have programs in place to handle manure responsibly and in a way that minimizes any environmental impact.

As a member of the Ontario Egg Producers, I'm also required to adhere to stringent food safety and quality programs that include regular on-farm inspections to monitor farming standards.

I don't want you to think that everything that needs to be done is being done. In fact, I recognize the need for all farmers to conform to province-wide practices. Having said that, any new law must be based on reasonable and achievable goals. In my opinion, that means any new legislation must be free from any overbearing costs on farmers. Take, for example, new capital investments required to implement new province-wide practices. The government will have to help our family farms in terms of capital investments. Otherwise, the new legislation will slap an additional burden onto our backs even though we already have stringent environmental practices already in place.

The government already issues tax credits to big industry for reducing air pollutants. It also provides money to municipalities for improving their sewage systems. Providing financial support to farmers would be a consistent strategy for the government.

Another point: some people suggest that a minimum amount of land may have to be owned by each farmer, based on the number of livestock. I can tell you firsthand that such a requirement would result in considerable inefficiencies in my farming operations, as I would have to purchase increased acreage to conform to the formula. I also don't think purchasing more land will address the environmental concerns at hand. Therefore, minimum acreage regulations are not required to protect our natural resources.

One final note: I consider my success has more to do with the number of family members around my kitchen table than the number of eggs I produce on the farm. I want to make sure there's a seat at the table for my children and, someday down the road, my grandchildren.

For sure, we need this new legislation, but it needs to be based on a balanced approach, with reasonable and attainable goals.

I want to thank you again for this opportunity and hope that my contributions will help in this important piece of legislation.

The Chair: We have about two minutes for each party, and I'll begin with the Liberal Party.

Mr Peters: Welcome back to Elgin county, Murray. It's like coming home for you.

I wonder if you could expand a little bit about the point on the minimum acreage. You talk about your own

farming operations, that you would have to increase your acreage to conform to the formula. What would you have to do specifically on your farm, the way it is right now? If this legislation were in place right now, how much land would you have to buy to conform?

Mr Delouw: I'd have to buy approximately another 80-plus acres to conform to the regulations, and that in itself is simply averted with nutrient management planning. We have designated times and places for the manure to be spread onto the fields and adjoining fields. All of my manure does not go on our property. It conforms with the soil-sampling tests that we do on the property, and we don't want to exceed that. It takes too many years to decrease the ramifications of putting too much manure on property for the phosphates and that. We don't want to get into that situation, so we have the manure going where it should be going—soil sampling.

The Chair: I will now go to the NDP.

Ms Churley: Thank you very much for your presentation. I just wanted to tell you that I agree with you that there needs to be some financial support, particularly for the smaller-based farms, as we move forward with this and the legislation is in place. I take your point, and I think we all do, that big industry does get various tax credits and help in terms of reducing their pollution.

I wanted to ask you, and there's not a lot of time now, but you say that you have a very good environmental practice in place. Can you describe a little bit what you do on your farm?

1310

Mr Delouw: When I refer to the food and safety quality programs, it has a lot to do with HACCP, which is your hazard analysis critical control points program that farmers have in place. It's not directly related to the manure, but we have plans, projects in place that have nutrient management planning becoming the focus point of the Ontario Egg Producers. It's being implemented as we speak. Like I say, in my own property, I would be satisfied with the environmental practices that are taking place, because they're perfectly logical, and the reasoning behind nutrient management planning is not to over-apply.

Ms Churley: Do I still have a minute?

The Chair: Yes, continue, Ms Churley.

Ms Churley: If there are any problems with the egg-producing farm industry, what would they be, their complaints about it? What are the kinds of things that we need to look at doing for that community that would make a difference?

Mr Delouw: Overall, province-wide, farmers having the same standards to meet and not having, more or less, a set of bylaws in Oxford county that differed from different counties that have instituted the nutrient management plans; just to have all farmers conform to the same regulations.

The Chair: We'll go to the PCs.

Mr Galt: Thank you, Mr Delouw. I'm concerned about your comments about acreage that you have to own. I may have missed it, but I'm not aware of it in the

present bill. But you may be referring to what's presently in Oxford, how much more land you'd have to buy.

Mr Delouw: No, Oxford county in itself doesn't have that stipulation in their nutrient management plan. It's not the amount of livestock that you're producing on the farm but it's how to handle the nutrients that are by-products of the livestock on the farm. As long as that's handled properly, that would fit in Oxford county's nutrient management plan.

Mr Galt: The intent, as I understand it, where we're going here, is that lands that are registered will not get manure from two or three different sources.

Mr Delouw: Absolutely.

Mr Galt: It would be clarified. The quantity of land is not at question. The quantity of land owned is not a question as much as if it's leased for a significant period of time; that you're going to have rights to it. We don't want you building a barn and then finding out a year later that those people won't let you put your manure on their property. I know that's a big issue for poultry producers, because a lot of them are constructed on a few acres of land. So certainly that's being addressed here. If you see something in the bill that's different, I'd like to know; I must be missing it.

But what I really wanted to ask you relates to assistance. You're talking of tax credits and so forth. Is a tax credit the direction that you would suggest if government was looking at assistance? Is that the kind of direction that you would be recommending?

Mr Delouw: It could certainly be part, I suppose, of the help to the farmers for compliance, but it could go further than that. I suppose as long as the farmers are treated equitably and fairly in this manner, as the legislation details itself, then we would be happy with a fair and equitable structure in the cost-sharing.

The Chair: Thank you, Mr Delouw. We certainly appreciate hearing your views.

We have several organizations on the agenda. There may be some cancellations. Just to double-check, the tobacco marketing board? I think they have cancelled.

HAYTER'S TURKEY FARMS LTD

The Chair: There's an opportunity for Hayter's Turkey Farms. Do you wish to come forward to the witness table? If you wish to proceed, we'll give you 10 minutes.

Mr Tom Hayter: Thank you. I'm representing our farm. I just found out I could talk yesterday. I'm really from Huron county. I should be at the Clinton meeting, but I was unsure of the time it would be in Clinton and I had other commitments.

We're a family farm. I am a graduate of Guelph, 1981, with a bachelor of science in agriculture. I've read drafts of the Nutrient Management Act. I find them somewhat intimidating. We have 600 animal units on our farm. It's turkeys. We have dry manure. We've always had the environment as number one in our priorities. We've participated in land stewardship programs and

environmental farm plans. We've completed one nutrient management plan, and we're on our second. We are very committed to the environment.

Nutrient management plans have been a positive step toward reducing the negative environmental impacts on our farms. As long as these plans are completed and followed by all farmers, then a Nutrient Management Act is not required. Therefore, all that is required by the Nutrient Management Act is to add accountability to the nutrient management plan and ensure that every farmer, regardless of size, completes the nutrient management plan.

There are several areas of concern that must be addressed to make the act feasible and practical. My concerns are as follows:

The financial cost: if there are to be large capital outlays, then farmers must have some assistance. We all know that municipalities receive grants for sewers and sewage treatment plants, and farmers should be treated the same. Some of the programs that have helped in the past are the CURB program; we participated in that. We are currently participating in the healthy futures program, and we are updating three septic systems. Programs like that will be necessary if there are going to be some capital costs.

I also feel OMAFRA should administer the act and not the MOE. There has been talk of MOE SWAT teams. I think if there are going to be SWAT teams, they should be down in New York and not up here, because we feel there will be media going along with them, and that's not necessary. Farmers will be much more receptive to agricultural representatives than they would be to the MOE staff. The MOE would be involved as consultants and could provide enforcement only if required.

I am also concerned about eliminating any disposal options such as irrigation of manure and spreading of septage. There's no one perfect solution to the disposal of wastes. There's always compromise. We find that on our farm. We were true no-tillers until we did a nutrient management plan. Now we've had to incorporate our manure. With sandy land, sometimes that opens it up to soil erosion. If you've been following the carbon credit issues and carbon emissions and what they developed in Kyoto, Japan, we're going to incorporate our manure and now we're going to release carbon into the air. So there's always a compromise. So I hate to see us close any doors to any disposal methods.

We know that there are municipal treatment plants that have approvals that have had bypasses or discharge because they could not handle extra volumes. These facilities need backup options and so do farmers, such as irrigation and septage spreading. Irrigation of manure and septage spreading should remain an option for existing operations and a backup for new operations. So I'm not saying they're the best option, but we should always keep backups.

I feel the phase-in period should be the same for both large and small. I think by segregating large operations, we're saying that they are the problem and smaller ones

aren't a problem. I disagree with that. I think most large or expanding operations have completed nutrient management plans. They have developed technologies and are probably practising more due diligence than some of the smaller operations. I disagree with the public perception that it's the larger operations that have the negative impact. Education and certification for nutrient application should be required by both large and small operators at the same time.

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With certification, I guess I'm promoting—it's probably in the act—where we do become more educated on how we're handling our wastes. Certification we have done through pesticide use and a lot of other things we have to handle, so I would agree to that for nutrients.

In summary, I think all we need to do is the nutrient management plan and build on those and their compliance. If the Nutrient Management Act can do this, the cost of compliance cannot be overburdensome to the farmer.

In short, enforcement should be done by OMAFRA; do not reduce disposal options; and the phase-in requirements should be the same for both large and small operators. The environment is important to everybody, and the cost of maintaining it should be shared by everyone, as everyone produces waste.

The Chair: Thank you, Mr Hayter. We have a little over a minute for each party. Ms Churley.

Ms Churley: Thank you very much for your presentation. If you knew these guys as well as I do, you wouldn't be the least bit intimidated.

Mr Hayter: OK.

Ms Churley: You mentioned CURB. CURB, for the benefit of those who don't know, is Clean Up Rural Beaches. It was a small program that the NDP government brought in and this government took away. I think in this context that these kinds of programs—it was small, but I noticed you said you were involved in that—are an example of one of many things the government can do in terms of working in a co-operative way with farmers and helping to give some financial assistance to achieve those goals.

I presume you would recommend that as we go through and bring some of this into law, you would like to see experienced people working directly with the farmers with some dollars attached and in a co-operative way as opposed to a hammer. I think that's what I heard you saying. You're concerned about over—not about overregulation, but costs, which you should be concerned about, of course, but also you want to be assured that people who are coming to your farm know what they're talking about and understand the issues.

Mr Hayter: Sure. Decisions were made years ago to build barns and that based on the requirements of the day. If we have to backdate and upgrade requirements of the past, then I think we need to be compensated for it. If we're going to decide to build a barn with new standards, then we can make that option now. If there's going to be some grandfathering or anything of things that are in

existence, then I don't think we need help for it. But if they're going to backdate and say, "Now this has to be better," then I think we need help on the stuff like that.

Mr Frank Klees (Oak Ridges): Thank you for your comments. First of all, I'd like to ask you a question. You would object to different phase-in periods for small operators and large operators. Why would that be?

Mr Hayter: I think what you're basically saying is that we need it more than the small. I know how much money I've spent on updating our facilities. We've spent hundreds of thousands of dollars, and I've done nutrient management plans. The one we're currently on is going to cost me \$5,000. I've spent a lot of money, and I feel we're going to be penalized again.

I think in a lot of cases in the small farms it's not purposely negligent, but because they haven't been exposed to nutrient management plans, they haven't had the opportunities that a lot of larger operations have had, they just don't know. Sometimes it's their culture too. We know we have certain orders that aren't as modernized. Our farm was like that years ago too. You piled manure beside the creek; those were things we did years ago.

Mr Klees: On the other hand, I think part of the argument that we would be getting from some of the smaller operators is, "We don't have the technical expertise. We don't have the kind of cash flow that some of the larger operations do. You're going to put us out of business if you force us within a certain time frame to do this."

Mr Hayter: That's why we need help, and that's why we need education and that.

Mr Klees: Now, when you say "help," are you suggesting direct subsidy from the taxpayer for your business operation?

Mr Hayter: No. No different than public sector sewage treatment help, things like that.

Mr Klees: But you're a private sector operation, and there is a difference.

Mr Hayter: Right, but this is for a public good.

Mr Klees: How do we deal, then, with the other businesses in our economy that also have environmental restrictions and requirements? Would they not line up, as you would, to say, "Look, if you're going to do this for the farming community, you have to do it for us as well"? Where do we draw the line?

Mr Hayter: I don't know. My understanding is that there are grants that go out to companies, and we'd just like to be part of that, I guess.

Mr Peters: An important component, once this legislation and the regulations are in place, is going to be the advisory committees. You are from Huron county. I think Huron, along with Oxford, has been one of the leaders in trying to stay on top of this issue.

It's kind of a two-pronged question. First, have you had any complaints made against you that have had to go to an advisory committee or have you heard from anybody who has dealt with the advisory committees? Also, I'm trying to get at the makeup of the committees.

Should the advisory committees just be made up of producers and politicians, or is there a role for the rural, non-farm individual to be on these advisory committees?

Mr Hayter: Oh, sure. With amalgamation, we've amalgamated townships with a town, and the decisions that are made about our farm now are more than half non-rural. I guess that's the way of the world. I spend most of my winter educating urbans—not urbans, because we're not large, but non-rural people—about what we're doing and why we're doing things. So the answer to the question is, I think we need input from us all. Did I make sense?

Interjection: Yes.

The Chair: Thank you, Mr Hayter. We appreciate that input.

IAN MCKILLOP

The Chair: I have Ian McKillop listed as our next deputat. Good afternoon. We have 10 minutes, sir, if you wish to proceed.

Mr Ian McKillop: Thanks very much for giving me the opportunity to speak before you today. My name is Ian McKillop. My brother Alan and I are cow-calf and egg producers from the Dutton area in western Elgin county. We have about 17,000 laying hens and 100 commercial beef cows on a land base of 650 acres. Our farm has been in our family for five generations. I'm a member and director of the Elgin Cattlemen's Association. As well, I'm on the executive of the Ontario Cattlemen's Association.

First of all, I appreciate the fact that it appears the provincial government has listened to the concerns and input of agriculture through the consultation process held last summer and fall. It is crucial—and, I believe, possible—that this act and its associated regulations must balance the goal of protecting the environment while ensuring a viable future for Ontario. Agriculture is a very significant business in this province and it must remain that way.

I'm also pleased that the new standards take precedence over bylaws of similar focus that have been imposed by various municipalities across the province. The incidence of municipalities imposing restrictions of their own is becoming more and more common. New standards will put all producers in the province on a level playing field. It's also crucial, I believe, that provincial standards not include caps on the size of livestock operations.

Environmental protection has always been an important aspect of the way we maintain our land. As I said, our farm has been in the family for five generations. It's our responsibility to ensure that it's left for future generations in an even better condition than it was in when we took it over.

Farmers in the province have long been very proactive with respect to protection of the environment. Programs like environmental farm plans, nutrient management plans and best management practices are all successful in

helping producers to improve their own farming practices. On our farm, we completed an environmental farm plan in 1995 and, as a result of that program, made a number of improvements to our land. One of these improvements was eliminating the winter spreading of manure.

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We've also worked very closely in the past with Ducks Unlimited to preserve a wetland. By fencing cattle out of the wetland, we are not only preserving the wetland by allowing wildlife to flourish but are also protecting a watercourse. As part of this management system, a solar-powered water pump is used for watering the cattle. We also make use of buffer strips to protect a creek from pasture runoff.

This coming winter, one of the goals on our farm is to complete a nutrient management plan.

Implementation of the new regulations must be phased in over time. It's unreasonable from both logistical and enforcement perspectives to believe that all 60,000 Ontario farm families could have the nutrient management plan process completed in a year or even two. A timeline of five years would be appropriate and categorization should be determined by total nutrient production and use, not by livestock units. The livestock unit measurement is weighted toward odour production and must be based instead on scientific data. A clear distinction also needs to be made between livestock production systems that are confinement-based, such as poultry or swine, and those that are grazing, such as beef, cow-calf or sheep.

I think it's important that OMAFRA, with its agricultural background, be responsible for third party reviews of nutrient management plans. This review service must be available to all producers who require it, not just prior to constructing new buildings. There should also be no cost to producers for this service. I also believe that OMAFRA is the logical agency to perform the audit function of nutrient management plans, as well as enforcement of the new act.

Financial incentives are essential to the new act. Urban municipalities are eligible for provincial grants to improve water and sewage systems. Depending on the size and type of farm, many farmers may need to spend tens of thousands of dollars to meet the new standards set forth in the regulations. Without financial incentives, many farmers would be forced to quit farming or retire, thus threatening one of Ontario's most viable industries. Using the successful environmental farm plan as a delivery vehicle for funding would be appropriate and well accepted by the farming community.

Finally, fencing of livestock from watercourses, while a clearly beneficial way of protecting water resources, is not always the most practical or effective solution. Due to the effects of ice movement in the spring, permanent fencing of watercourses would incorporate many acres of floodplain—land that has been used effectively as pasture land for years. Mandatory fencing could eliminate this land from farm production or could see pasture land

being used for crop production, which could adversely affect the watercourses currently buffered by vegetative areas. Buffer strips and other measures can play an effective role in maintaining water quality.

I thank you for the opportunity to speak to you today.

The Chair: We have a little over a minute for each party. We now begin with the PCs.

Mr Galt: Thank you, Mr McKillop, for your presentation. You don't live in McKillop township up in Brant county?

Mr McKillop: No, I don't.

Mr Galt: I'm interested in your comments about winter spreading. Back on a beautiful sunny day in January, on a drive from Goderich to Guelph, I identified six people out with manure spreaders, winter spreading. Quebec has come in that from November 15 to April 15, I think it is, thou shalt not spread. What would you put in a regulation having to do with winter spreading? How would you address that?

Mr McKillop: I would think something along those same guidelines. Certainly every year is a little bit different. Depending on the snow cover, perhaps the regulations wouldn't have to be quite as tight, but I know in this past year, had we spread on snow cover in December and January—we had a big rain toward the end of January when the ground was still frozen—all that manure, or a good portion of it, would have ended up in Lake Erie. It's hard to go exactly by the calendar, I believe. Certainly on frozen ground, on snow cover, when there is still the risk of heavy rains—there has to be some leeway, and I don't know what that leeway would be.

Mr Galt: Injecting it in or whatever. These are some of the things we're confronted with, to come up with a common sense, practical, applicable—and we still have standards. I just thought I'd toss it to you to see if you had been thinking about that.

Mr McKillop: I imagine November, December, January and February would make the most sense. When you get into March and April, you're getting into some better weather and the runoff shouldn't be as great, with snow runoff and that sort of thing.

Mr Galt: And we don't get too many winter crops.

Mr Peters: I want to go to the fencing issue. I had occasion just this past week to go out to Iona Station and see how the Line Fences Act is not being enforced and the problems that one individual has with his neighbour who doesn't comply with the Line Fences Act and cows wandering from one farm to another. I also had it pointed out to me that there's a municipal drain running through his property which he really doesn't want there, but the drain happens to run through. The question is, who's going to have to pay for the fencing? Is it him, because he's got this drain coming through, or not? It was interesting to me to see this farm and the farms in the Iona area and the condition of fences.

If the fencing portion of this legislation is enforced, is it going to be an expensive operation to have these fences built, for you or anybody else out there?

Mr McKillop: Certainly, styles of fencing have changed over the last few years. Electric fencing is a lot more common now and it's a lot cheaper than the old page wire fencing. I don't have a cost figure as to what it would cost, but certainly it's not a huge expense putting up two strands of electric fence. It's a fairly minor expense in the grand scheme of things, I guess.

I think the biggest concern is that if we fence off watercourses there's a lot of pasture land we are losing out on. We have one particular farm where we have a stream running through it. Like most streams, it really meanders. If we had to fence off the whole thing, we might as well forget about pasturing that land because it just wouldn't make sense. It would take too much time and money to fence that particular area. We'd be left with nothing.

Ms Churley: Thank you for your presentation. It sounds like you've really been working hard to comply with existing rules and regulations, and you came up with an environmental farm plan back in 1995. That's great; I'm happy to see that.

As you know better than I do, this is a really complex area. My question is around how to best do these things. As a result of Walkerton, there is a sense of urgency—there was before as well—for all of us to do something to avoid that happening again. We have to come up with the best kinds of regulations and laws that we can, but at the same time not destroy small farmers. I suppose my question is very simple: what would you recommend is the most important thing that needs to be done at this point?

Mr McKillop: I think probably the most important thing would be that there needs to be some kind of grant system in place for farmers to protect watercourses from runoff. Certainly in the beef industry there are a great many barnyards or feedlots across the province that aren't covered, and when we have a rain, that runoff ends up in the ground and in the water systems, as we saw at Walkerton. To cover these yards or to build a tank to catch this runoff would be a great deal of expense and would force a lot of people out of business if they had to pay for that themselves. I think that's the major concern, that there be a grant program in place to help producers cover some of their capital costs.

The Chair: Thank you, Mr McKillop, for the valuable input for this committee.

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MIDDLESEX FEDERATION OF AGRICULTURE

The Chair: I now wish to call forward the Middlesex Federation of Agriculture. Good afternoon, gentlemen. We'll ask you to give us your names for the purposes of the Hansard recording, and then we have 15 minutes to proceed.

Mr Jim Reith: Very good. It's Jim Reith. I'm the president of the Middlesex federation. Doug Duffin,

who's with me, is chair of the political awareness committee.

It gives us great pleasure to be here and to avail ourselves of this opportunity on a day that sees a tremendous attack on democratic institutions in the world. It's just a terrible thing that's going on out there in the news today. It just makes it very important that this kind of activity happen. It's a bit of a responsibility to try and make the most of this.

One of the tacks we would like to reinforce in your minds is the idea that while it is very necessary to regulate and ensure safety, we wish to bring forward points that would demonstrate the need to allow initiative and ingenuity and innovation to take place. With that in mind, Doug has gone through it in point form here, and if we could turn it over to him he will maybe respond.

Mr Doug Duffin: I believe you have the handout in front of you. We have highlighted some sections of the act which we feel need to have some notice and things that need to be made aware of as you deliberate the act when your hearings are done.

Part II, you can read through. Under 5(2)(a)(v), "standards for equipment used to transport and apply ... nutrients," I guess our concern is that there be flexibility. There are lots of different ways to skin a cat, as long as it's being done legally without any loss of nutrients, spillage, whatever; that there be flexibility there to not regulate things too tightly; that farmers have been very innovative and that this be allowed to continue.

Proceeding on to the new technologies part, and it came up a couple of times, we felt that the process to having new technology approved by regulation before it can be implemented is overkill; that as long as it met the criteria of the nutrient management plan and was environmentally friendly, then it should be allowed to proceed. A lot of times there's a time delay or lag between the invention, for lack of a better word, of a new technology and the possibility of it being approved by regulation so it can be used.

"Farmers and those operating equipment to meet qualifications and pass prescribed examinations": our thought is that this is overkill. I believe that under the pesticide course only the farm manager needs to be licensed. Currently the farm manager could then have a person under his care and control who's applying 28% nitrogen as a spray carrier for fertilizer, and in that legislation that's OK as long as the manager is aware of what's going on. We feel the same thing should be allowed for the spreading of manure, the spreading of waste, in that it's a repetitive job. It's something you can put somebody on, a sort of casual labourer, and they can go and do the job for the day and you can manage that employee the same way any other employee would be managed.

Access to the registry of nutrient management plans: I guess our question, our concern, is confidentiality and the public's access, how those will be used. It will be, obviously, some sort of public document, but what sort of

access is there to that registry? The potential is there of, we feel, abuse from the other side.

It mentions the need for geophysical studies, soil and groundwater flow: this is more a regulation thing. Again, that could be very expensive, very cumbersome for something that is obvious from soil maps—they list topography and soil type—and we don't feel there's the need to reinvent the wheel every time. That information is there, it's free and you can use it to determine what level of nutrients can be applied.

Clause (u), innovative technologies: again, as stated above, we don't want to see something that might work on the farm be regulated out of existence, for lack of a better word, because there is no regulation that allows you to do it, even though it might be scientifically feasible and work in your operation.

Part III of the legislation, "Hearing by Tribunal": part of it discusses the input to the application by parties at a hearing. Our concern is who gets standing, and will they be allowed to use that as a soapbox to pursue views that aren't necessarily promoting the better application of nutrients?

Part IV, "Inspections and orders": "a provincial officer may, without warrant or court order, enter and inspect ... any land or premises that, (a) are used by, or are part of, an agricultural operation," and it goes on, exempting the dwelling etc. Our concern with that is biosecurity. From our understanding, most of the aspects of this act deal with things that happen outside the physical barn and there is a concern. It might be something as simple as an agent or whoever having a bird at home, a parrot or whatever, and it has a rare disease and he walks into a chicken barn of some sort and carries that disease in. It is not necessarily going farm to farm. It could be something along that line. As biosecurity becomes an increasing thing, and we are doing the best to our ability to create a safe and healthy product, to have an outside influence affect that would definitely be adverse to an individual farm operation.

Subsection 31(8), the written request for review: if it goes seven days and the director doesn't make a decision, it's deemed that he has made an order confirming that. The potential exists, because "director" isn't spelled out too clearly, it could just be overlooked. Something could happen and seven days could pass and the order would, in effect, be confirmed without having had a full and fair review.

In subsections 39(1) and (3), under "penalties," we feel there needs to be more of a carrot approach than a stick approach. The potential is there, and again because the regulations haven't been drafted yet, there needs to be some thought as to the level of infraction and an education process that make farmers aware that they have to comply with everything, that they're not assessed financially for what could be a small oversight.

Part VII, "General," the establishment of the registry being privatized: we have a concern about confidentiality of information.

The review of nutrient management plans being privatized: our feeling is that the third party government review is unbiased and gives more credibility to the process, both to the farmers and to the public in general.

That section carries on: even though it's privatized, the crown accepts no responsibility. We feel there should be a stronger legal tie. This is an act of the government, and the government should be responsible even though it could potentially be administered at arm's length.

Finally, in the payment of fees, we're concerned that this act is being instituted for the public good and farmers will pay a dramatically increased cost to comply, from soil testing and manure testing to completing the plan, registering the plan, reviewing the plan. Everything is going to be a cost to farmers. They have no way of recouping that cost.

One final thought I'd like to leave you with is that nutrient management and the care of the environment are a collective responsibility. It's something that's being driven home today, especially when the world doesn't unfold as it should. Food will still be bought. Food quality is something that needs to be thought of as you deliberate this.

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It was interesting that it was actually a summary of a speech from a speaker at the Toronto Humane Society that said, partly inaccurately, because broiler chickens aren't raised in cages, that he would rather see broiler chickens raised in cages in Ontario, where it's known that the welfare is there and the manure will be handled, than to have chickens imported from Mexico, where there will be more overcrowding and potentially the manure could just be flushed down the river.

The Chair: Thank you, gentlemen. We have about a minute for a quick comment. We now go back to the Liberal Party.

Mr Peters: Doug and Jim, thanks very much for your presentation. We're hearing a lot of common themes as we've embarked in the past two and a half days.

I look at a county like Middlesex, where you've got some really diverse soil types, be it sand, or you get into North Dorchester and the water table is right there at the top of the ground with all the gravel, or north Middlesex, where the soils change, and I read your comment as far as geophysical and soil and groundwater flow. I'm not talking about an individual farm case; I'm talking in a general sense. Do you think there's a need for us to study or for somebody to initiate a study to look at the different soil types that are out there and have that lead maybe through the University of Guelph or something like that? Is there some merit in doing that?

Mr Reith: There's a terrific need for research on water generally. I think we make a lot of assumptions about water; a lot of us think we know. Assumptions aren't going to be good enough if we're going to be faced with regulation. If we're going to be having to develop detailed plans around this, we have to have some science for that. I think the responsibility to speak responsibly on that is more than just an individual farmer's. I think it's

beyond an individual farmer's resources to initiate that. So there does need to be province-wide research done on water and groundwater movement and all of the other influences on groundwater.

The Chair: We'll go on to Ms Churley.

Ms Churley: I'm really puzzled by something. I've heard this comment from other farmers as well in the past couple of days: the concern about confidentiality when it comes to the registry of the nutrient management plans. You said something like, "It can be abused from the other side." Can you clarify what the concern is about this being public information?

Mr Duffin: I guess the concern is that if this registry is a public document, you could have a person who is interested in the environment take it upon themselves to look at—and it probably would be a large operation—and access the nutrient management document. They would have registered that document and they're supposed to be applying, say, 3,000 gallons per acre of liquid pig manure on field X, and they do that, and perhaps it's near their cottage or whatever, but then they go out there and try and calculate what is being applied. To be honest, it depends on so many things that you can't from a drive-by thing—you would have to be pretty scientifically based to know what 3,000 gallons per acre looks like. I guess it is a concern that it will be used that way, that there will be individuals accessing it, trying to figure out what's being applied and coming forward to say it isn't being done correctly and having no scientific knowledge of their own.

Ms Churley: You're concerned that if somebody is perhaps breaking the law and that is found out, it could hurt the farmer? I'm still not quite clear. If you live right next door to somebody who is in fact not sticking to a nutrient plan that could be environmentally dangerous, don't people have the right to know?

Mr Reith: I think there's possibly room for interpretation, that the person next door may think it's inappropriate without adequate knowledge of the situation, and specifically have no interest in being particularly fair about it. They're just opposed to this thing being there and they are looking for any way to harass it out of existence, and that becomes part of the problem.

We've seen some instances where that has happened. Just to demonstrate, a farmer, who had a Ministry of the Environment officer standing with him, sent his employee out into the field with a tank of water, who spread it on the field, and within half an hour the officer had reports in his office of complaints of smell. They didn't wait for the smell; they just saw the tanker and assumed it would be coming. There's a bit of paranoia on both sides here that I think we're a little bit concerned about.

The Chair: Thanks. I'll go to Mr Beaubien.

Mr Beaubien: Gentlemen, thank you very much for your presentation.

I don't have a question; I have a comment. I have to be on the record because I know that Ms Churley, when

we debate this bill in the House, will be championing at the bit and taking this bill apart for a number of reasons. I'll point out one thing in your presentation under part II: 5(2)(b) and (c) say "requires farmers and those operating equipment to meet qualifications and pass prescribed examinations." The Middlesex Federation of Agriculture calls this overkill. Mr Hayter made a presentation about an hour prior to your presentation. He said, "Education and certification for nutrient application should be required by both large and small operators at the same time."

My comment is that the agricultural community should see fit to start speaking with one voice. As a member of a committee, when I see one group telling me one thing and another telling me another thing, I become very confused. Thank you.

Mr Duffin: If I could respond to that, we're not opposed to the farm operator being licensed—an examination or whatever. What we're saying is, in that situation what commonly occurs now is that you find somebody—perhaps a retired farmer or whoever—you can instruct on how to operate the equipment, to spread manure for a couple of days and help you out in the springtime because it's busy; you're trying to plant your crops as well as get the manure spread. Not everybody needs to have that licence; it simply cuts off that labour source. The farm manager does it; the farm operator does it. He has the licence. He knows the science behind what's required.

Mr Beaubien: OK, but I think we're sending the wrong message when we call it overkill.

The Chair: Thank you, Mr Beaubien. Mr Duffin, Mr Reith, we appreciate the Middlesex federation coming before the committee.

ELGIN COUNTY PORK PRODUCERS

The Chair: I would now ask Elgin County Pork Producers to come forward, please. Good afternoon, sir. We have 15 minutes, if you wish to proceed.

Mr Peter Dekraker: My name is Peter Dekraker and I'm here representing the Elgin County Pork Producers. We had a meeting about a week and a half ago and we had a member of OMAFRA—I forget the fellow's name—come out and talk to us and explain the proposed nutrient management plan and all that entailed. A good discussion followed afterwards and these were just a few of the main topics that were discussed. We felt we'd like to bring them here to this meeting. Everyone has a copy.

Caps: we feel caps need to be addressed in this legislation, and just one example is animal units. The main reason for this is so that municipalities cannot set their own limits by using caps. The proposed nutrient management plan should be enough to make sure that operations are meeting all requirements before they can build or expand. That's fairly self-explanatory. We don't want municipalities setting their own rules. We feel that all standards should be the same right across the province. Municipalities just can't do their own thing.

New technology: we feel there needs to be some flexibility in the proposed nutrient management plan to accommodate new research and technology in the handling and disposing of nutrients. If new ways are found to reduce their impact on the environment, the nutrient management plan should be able to change to accommodate this technology. Again, I think that's fairly self-explanatory. We don't want this thing poured in cement and say that's it; there's no room for improvement. There always has to be room for improvement. Ontario Pork has spent a lot of money in the past years on the environment, on research. There's a new pig. I'm sure some of you have heard about this Enviropig that they've done at the University of Guelph. There's always room for research and development, and we feel that this nutrient management plan has to always be trying to entice new research and development and not just say, "That's it. That's the way it is."

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Enforcement and training of field officers: we feel that field officers will need to be trained in the way they deal with farmers and their operations; for example, biosecurity. It is very important, especially in hog operations and most livestock operations, that biosecurity issues are addressed in a positive way so as not to jeopardize the health of the livestock operation. Also, they will be dealing with family-run farms, where all the work is done by family members. Field officers need to use discretion when exercising their powers of enforcement and inspection on farms.

Again, that's fairly self-explanatory. In the pig industry, biosecurity, as I said, is very important. We're trying to get away from a lot of medication in the feed and in the pigs so we're creating animals that are clean. We need to keep them that way. As one fellow has pointed out, we don't want field officers going from farm to farm, just walking in and flashing a badge and saying, "Here we are. We're coming in." As I said, in family operations sometimes mom and dad are gone, but the kids are home and they get a visit from this fellow who says, "Here we are. We're coming in." We're not corporations where we have people hired to deal with this, so discretion needs to be taught to these people. Whether it's a prior phone call to say we're coming in or whatever, I don't know. That'll be the job of this committee or whatever to come up with that, but it needs to be kept in mind.

Agent for applications: we believe that OMAFRA should be the only agent that has final approval of the nutrient management applications. We feel that private companies could influence the integrity of the entire program. Also, by having one agent, all documentation would be in one place and there would be consistency in the application approval process.

Finally, funding: we recommend that appropriate funding programs be put in place to help the agricultural industry implement the recommended changes that will be needed to comply with the nutrient management plan.

This funding should be new monies and not dollars reallocated from other existing programs. That's it.

The Chair: Fine, thank you, sir. We have about a minute and a half or two minutes for questions. I'll start with Ms Churley.

Ms Churley: Thank you very much for your presentation. I think all of us have received letters from across the province about what are referred to as factory farms or intensive livestock, or various terminology, complaining about them. I'm sure not just I receive those letters. In some areas, there seem to be some major disputes going on about them, as you must be more aware of than I.

Given the legislation before us, and of course a lot has to be done in terms of the regulations yet, where the real meat will be, so to speak, on this bill—I think this is a really important question; this is very divisive in communities, as you know—do you see any kind of compromise or some ability for people to come together on this? Right now people are really polarized. I'm hearing from both sides and I'm really concerned about it. But I also see from the letters that in some cases there is some real legitimate concern.

Mr Dekraker: The concern being about these big farms being built?

Ms Churley: Yes.

Mr Dekraker: And the neighbours around it not liking it, so they're doing the complaining, is that it?

Ms Churley: For a whole variety of reasons. In some cases it's cottages but in other cases it's some of the smaller farmers. It's not only about smell but sometimes it's concern about being near environmentally sensitive land, concern that, especially after this legislation goes through, if it goes the way the government wants it to, the municipality and the town will have no opportunity whatsoever to have any say. It's a big, contentious issue out there that the government really does have to grapple with.

Mr Dekraker: I haven't read the whole nutrient management proposal in detail, but the way it was explained to me was that to build a big barn or whatever it is, you're going to have to meet these regulations and you're going to have to be so far away from watercourses and you're going to have to have the land available to you to spread the manure. We feel that the proposed Nutrient Management Act should take care that these big barns are not going to be built beside a river or stream or wetlands, that they're not going to be built right next door to a cottage.

The reason all these complaints are there is because there was not a set of standard rules to begin with and each municipality did their own thing, where some municipalities said absolutely no more building and in other municipalities at this time you can still do whatever you want. I think that's what's leading to a lot of the problems. By bringing out a standard set of rules, it's not going to solve existing problems, but it should solve future problems.

You say farmers complain. What's the real reason? Is there jealousy involved there? You don't know until you really start digging. But we're saying yes to the proposed nutrient management plan, that there need to be rules and regulations. We just pointed out a few things we felt needed to be addressed. But we are for the same standards for everyone across the province.

Ms Churley: You say there may be jealousy involved, and I've heard that from some others as well. Would you say, though, that there are some legitimate concerns out there about some of those huge farms?

Mr Dekraker: There probably are. There are always a few bad eggs in every basket. I know personally of a couple of pork producers who are very poor stewards of the land and they have given the pork industry a bad name. Hopefully, with these new plans, either they're going to have to clean up their act or they'll be put out of business.

The Chair: Thanks, Ms Churley. I'll have to go to the PCs.

Mr Galt: I've got a couple of comments. Thank you very much for your presentation. As relates to the cap, currently the thinking is not to put a cap on, other than that there be enough land base, either owned or long-term lease, that can handle the amount of manure that's going to be created by XY animal units.

It's a thrill for me as a veterinarian to hear the concern about biosecurity as we move around the province. I've been preaching it for 40 years, and for quite a while it seemed like only the poultry producers were really paying attention. You can always put a lock on your door. But I fully agree with your concerns on biosecurity and I'm pretty well convinced—and certainly we've been preaching it—that the people who will be enforcing this will be very conscious of livestock operations. I think you're right. Most of the time, they don't have to go into the barns.

Mr Dekraker: And we're not going to ask them to do anything that we don't do ourselves. If they come on to my farm and I don't put on clean boots and I don't do this or that, then I can't expect them to do it. But if they're going to operations where it's shower-in, shower-out, do this, do that, they have to follow the same rules on the farm as anybody else, and not just say, "I'm the MOE," or "I'm OMAFRA. Here's my badge; I'm coming in. Get out of my way."

Mr Galt: If they move from farm to farm, they should consider if the last farm is grossly contaminated as far as any disease they might spread, and they should shower and change clothes and be prepared for it.

Mr Dekraker: It might be having a box of those disposable boots and disposable coveralls in their vehicle. I know they are maybe small details, but they could be very important details to my operation.

Mr Galt: Even visiting only one farm per day, if you're going inside the barn, those kinds of standby rules are, in my opinion, very, very important.

Mr Peters: I think funding has been in every presentation we've heard from day one. This past

Sunday, I went to an open house at a new pig barn that had just opened up very close to us here.

Mr Dekraker: I know the one, yes.

Mr Peters: The funding issue is going to be a big issue, but how would you suggest we address this? If we put a funding program in place, what are you going to say to Mr L, who just invested all this money and built this new barn? We come in with a new legislation and there is a funding program in place that helps somebody make those improvements. This family just did it all out of their own pocket. Down the road there's a funding program in place that's going to assist somebody. It may be premature to ask the question, because the commitment hasn't been made for funding, but do you have any thoughts on how you deal with that issue? Even for yourself right now, maybe you've chosen to make those environmental improvements to your farm, putting in the new technologies, and all of a sudden a funding program comes along. I don't think it's going to be retroactive.

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Mr Dekraker: No, it probably won't be, but then again it seems like our political guys could even take raises and make that retroactive. I mean, anything is possible.

That's a decision I have to make today. If I decide that I'm going to do this project and I hope that the government's going to give me some money back a year from now because they're going to come out, supposedly, with a program, I can't take that into consideration. If I go to my banker and say, "This is what I'm going to do." "How are you going to pay for it?" I've got to tell them how I'm going to pay for it. I can't tell them, "I think they're going to give me some money a year down the road to help pay for this."

For each individual farmer, they have to make that decision as to what they are going to do today. Are they going to wait to make improvements until some funding comes available? That's their decision. Do they go ahead and do it today and maybe, maybe not? That's again their decision to do that. How dire is the situation? If they feel it needs to be done today, fine. Does it go retroactive? Fine. But I still think that's up to each individual farmer to make that decision, and they live with it. Whether they get something for it or not down the road we don't know. It takes a much wiser person than I to say, "Are we going to give grants, are we going to give interest-free loans?" I don't know. That's something the committee, the government and everyone else will have to look at.

But it needs to be fair. Like the one fellow said, you can't just start all of a sudden placing huge burdens on us. Everyone knows, or should know, that farming is not a really profitable business at times. There can be pretty thin margins, and at times a lot less than thin. That all has to be taken into consideration. I understand that we made the decision to go into farming ourselves, nobody said we had to do it, but there needs to be a phase-in time and there does need to be help. If they're legislating these things in, there needs to be some help there. I would

rather see more money spent, instead of setting up a whole new bureaucracy and hiring people and vehicles and tons of paperwork that's going to be done, on education and helping people make the adjustments on their farms to meet the nutrient management plans. Let's not kid ourselves; this is going to cost hundreds of millions of dollars over time to implement and manage: vehicles, gas, paperwork. It's going to cost a lot of money. Why not put that proposed money into educating. Look at no-till farming. Nobody did it years ago, but through education, by showing people that it does pay off, it has now become standard practice.

The Chair: I wish to thank you, sir. We appreciate this input from Elgin County Pork Producers.

LONG POINT REGION CONSERVATION AUTHORITY

The Chair: I would like to call forward Long Point Region Conservation Authority. Jim, have a chair. We have 15 minutes. I will ask you to give us your name for the purposes of Hansard. Proceed.

Mr Jim Oliver: My name is Jim Oliver, Mr Chairman. Thank you for the opportunity to speak. I'm sure you have had other people who have said this to you already today. It's difficult to sit here and speak to you, and it's probably difficult for you to sit there and listen to presenters, in light of what's happened today in the United States. It completely overshadows anything that we can think about today.

On a positive note, though, I was glad this morning to be over in Oxford county where there was an announcement of a tri-county clean water project under the healthy futures program and talking about funding and assistance to farmers and other rural landowners. That's a program that is working. If it were to continue, that would be great. Others, hopefully, will follow it.

The Chair: I appreciate your mentioning that. That was the reason I was absent this morning; I was attending that event.

Mr Oliver: Mr Chairman and members of the committee, the Long Point Region Conservation Authority is a mid-sized authority encompassing several watersheds draining to Lake Erie's central basin on the north shore. Big Otter Creek and Big Creek are the two major watersheds or drainage basins within our authority, along with the smaller Lynn River-Black Creek system, Nanticoke Creek and several others to the east. While Big Creek, Young's Creek and others in the central part of our regional watershed are classified as significant coldwater streams with important salmonid fisheries, Big Otter Creek has the dubious distinction of being the largest source of sediment entering Lake Erie from the Ontario side. Our watershed is largely divided between deep, incised valleys and streams within the Norfolk sand plain and flat, warm, shallow streams in the east end of our watershed within the Haldimand clay plain soil areas of southwestern Ontario. While these two watershed areas are distinct from each other, both can be susceptible

to impacts from livestock operations if located improperly or not managed effectively.

We are one of the 38 conservation authorities within the Conservation Ontario network and support the comments and recommendations put forward to you this morning, we understand, by our Conservation Ontario colleagues on our behalf. We expect that your review committee has heard and will hear from a number of individual CAs at these meetings speaking in support of our collective voice and wishing to address local concerns as well.

Our authority strongly supports the notion that the Nutrient Management Act, or "the act," as I'll call it, should include wording to recognize that existing and proposed livestock operations are within watersheds or subwatersheds, and thus that proposed impacts from such operations be realized not only adjacent to the operation but also potentially downstream for considerable distances or even beneath the site of the operation.

Waterborne contaminants can travel downstream for considerable distances if they reach a surface water stream, drain, either private or municipal, or watercourse. They can travel down through the soil to the underground aquifer if soil conditions are of a certain type or if existing well casings or wellheads are inadequately maintained or damaged. Such circumstances can allow nutrients or bacteria from manure or other sources to enter the surface water or groundwater of a watershed, and this issue should be addressed in the wording of the act.

With respect to the review and approval of nutrient management plans, we note from the act that initially MOE would review and approve same for large operations, while OMAFRA would do so for mid-sized operations. The act should somehow ensure that there is coordination between and signoff by both ministries for both classes of operations. Information on groundwater resources, nearby wells, water quality etc is within the realm of the Ministry of the Environment and is relevant to even mid-sized livestock operation nutrient management plans, as well as those defined as small; in other words, not only to the large operations.

I would acknowledge the recent initiative by the Ministry of the Environment, by the way, to encourage the assessment of groundwater resources by municipalities and conservation authorities and others in parts of the province where this hasn't been done yet. I think that's an excellent initiative, and I hope a lot of municipalities are going to take advantage of the funding that's been made available to do these. The act should ensure, nonetheless, that input is shared and consultation takes place between these two ministries in particular in completing the review and approval of nutrient management plans.

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With respect to the act's relationship to other legislation, particularly the Environmental Protection Act and the Farming and Food Production Protection Act, we recently had an opportunity to review the decision of the

Ontario Superior Court of Justice, between Burns and the township of Perth South, regarding the issuance of building permits for the construction of hog barns. I did bring one copy of this decision, Mr Chairman, that I can leave with your clerk. We would suggest that the province ensure that the proposed legislation, or the act, does in fact recognize the ultimate authority of the Environmental Protection Act in matters relating to pollution and contamination or the likely potential for same of the natural environment.

We support the opportunity for local delegation of certain components of delivery for the legislation, where appropriate and where requested locally, presumably by municipalities, and we support the requirement for uniform municipal standards. We are prepared to work with our watershed municipalities where and when requested to assist with addressing issues of water impacts from livestock operations, biosolids applications etc.

On a related note, while the act will establish minimum distance separation requirements for land application of manure and buildings to protect land and water, it would be very helpful if somehow standards or requirements could also be provided to deal with unrestricted access to streams and rivers by livestock animals. This can have a significant negative impact on water quality downstream, not only from livestock manure entering the water directly but from the erosion of stream banks, with resultant sedimentation of the watercourse.

In summary, we welcome the proposed act, as it will assist the province, municipalities and farm groups in ensuring the protection of the surface and groundwater resources of Ontario's watersheds while also ensuring that livestock production can continue as a valued part of the rural community. We are anxious to continue to do our part, and any new role we are asked to play in helping deal with this problem. Thank you.

The Chair: Thank you, Mr Oliver. We'll begin with the PCs. We have two minutes for each party for any comments or questions.

Mr Klees: Thank you very much for your presentation. A number of presenters have raised the issue of the cost involved in implementation of some of these recommendations. What is your view of, first of all, what the arrangements could or should be around the capital costs that would be involved in a program like this, and what role the conservation authorities might play in implementation?

Mr Oliver: I think historically and traditionally in the last few years in Ontario we have had programs sponsored by the province where capital improvements to farms such as manure storage, restricting cattle access etc have been funded to varying degrees, depending on the location and the type of project, cost-shared between the province and the farmer.

The classic example, and I think you've probably heard about this already in your discussions, is under the CURB program from the early to the mid-1990s. That

program seemed to work fairly well—very well in some cases. We had it implemented in parts of our watershed. I think, generally speaking, we would support that kind of incentive. If a farmer, under a new nutrient management plan, is going to establish capital structures on his or her operation to address handling the nutrients, we support the fact that there should be some incentive, financial as well as moral, to him.

As far as the role of the authorities, I think our expertise over many years has been implementing projects on the ground; in other words, in the local communities and with individual landowners. We've done it with CURB, we're doing it with the healthy futures program, and we've done it with others. I guess if that's a role we can play, then it has worked in the past.

Mr Klees: Just a quick follow-up. Do you see potentially a role for the conservation authorities in the area of compliance?

Mr Oliver: I think that will depend. I would suggest that if there are situations where the municipalities have requested to have responsibility delegated to them and they in turn partner with their CA, for example, to do it—just like has been done with health permits for septic systems and so on—again, I think it can work. If it's something we're collectively asked to take on, we would attempt to do it.

Mr Peters: I want to follow up on some of the comments Mr Klees made. We've heard there's been a difference of opinion as far as enforcement, MOE or OMAFRA. We've heard at different times the need for research and understanding groundwater. To me, when I look at the conservation authority, I see you as somebody who has that relationship with MOE, with MNR, with OMAFRA, with the municipalities, with landowners, dealing with the federal government because there could be fish in the ditch and dealing with the DFO, or the water running into Lake Erie, which suddenly becomes a federal matter. When you look at everything, you see a lot of it comes back, plus you represent a watershed and not a municipal boundary.

To follow along with what Mr Klees was just questioning you on, and recognizing too that we've lost programs like CURB and we've seen budgets drastically cut to conservation authorities, is there a greater role that the conservation authorities could play in delivering this program? Because you've built those relationships, does the capability exist for the conservation authorities to really take the lead in delivery of this legislation?

Mr Oliver: I guess two quick points. First of all, we've got that 55 years' worth of history, of the relationship between the senior governments and the local municipal governments and the relationship between governments and landowners. That's been the strength of the authority movement for all those years. And you're quite right: probably every person, be they landowner, environmentalist, bureaucrat or technocrat, can understand the concept of that watershed. Water flows downstream. What you do up here affects down

here. Those are the two big strengths of conservation authorities and always have been.

I would suggest, just as one manager for one authority, that where we're directed by our partners, be they the province or the municipalities or both, and where we are given the opportunity to develop the expertise, if we don't already have it, in terms of an expanded role in compliance or whatever it is, I'm absolutely convinced that the conservation authorities can do it. If you asked us to do it tomorrow, probably many couldn't because we don't yet have the skill sets or the staff capability to do that. Some do. All of us, I believe, can do it if we're directed by our partners to do so and if we have the opportunity to increase our expertise.

The Chair: I'll go now to Ms Churley.

Ms Churley: And, of course, following up on that, if you had the resources put back in the conservation authorities. I know across Ontario some lands had to be sold off because the cuts have been so deep.

This is going to be an expensive enterprise if you want to do it right. Farmers are making the case, and I accept that, that if it's done right, it's going to be costly. There are going to be costs involved in inspections and compliance. All of those things are going to have to be done. Studies are going to have to be done. I guess what I'm getting at is that—I'm trying to be nice here—

Mr Bert Johnson (Perth-Middlesex): So unlike you.

Mr Beaubien: It's got to be tough.

Ms Churley: It's very tough. If we're under fiscal restraints, I am concerned that if the funds aren't there to enforce this, the kinds of things that need to be done won't really get done. I'm just trying to ask you if you can see a way in working with the farmers, supposing it is you, that this work can be done and we can protect our waters, but without huge costs. It's a big question, I know, but I think it's an important one that has to be grappled with because we're realizing more and more that this is going to be a costly enterprise. Keeping the environment clean costs money.

Mr Oliver: I suppose in the simplest form there is the fact that any kind of funding program or financial assistance program would be a cost-shared thing between the farmer and the province. The farmer isn't going to waste his money, and if he's not going to waste his, he's not going to be wasting the province's either. So yes, it probably would be costly in many cases to implement it, but I think you have to have faith in the landowner that fiscally, if he's got his own money being invested in it as well, he'll probably try to do it in the most cost-effective way that he can, both for his benefit and for the province's if the province is going to help him financially.

The Chair: Thank you, Mr Oliver. We appreciate that presentation.

BARRY SMITH

The Chair: I wish to now call forward Barry Smith. Good afternoon, sir. We have 10 minutes for your presentation.

Mr Barry Smith: Good afternoon and thank you for this opportunity to present some of my concerns on this proposed bill, referred to as the Nutrient Management Act, 2001.

I'm a third-generation farmer residing in Oxford county, a former dairy farmer and Holstein breeder. I currently crop 330 acres and have a small beef cow-calf operation, with an additional 25 acres of woods.

I am also very involved in my community. Currently, I am the president of the Norwich Township Chamber of Commerce, president-elect of the Oxford County Federation of Agriculture, and vice-president of the Norwich-Otterville Lions Club. As well, I have been president of the Soil and Crop Improvement Association in Oxford, a director of a mutual insurance company, and a municipal councillor for two terms. From this varied commitment to my community and the future of sustainable, economically productive agriculture, I present some of my concerns.

First, I will offer a brief historical perspective on the livestock industry as I have known it. According to the 75th anniversary edition of the Ontario Milk Producer, we have only 50% of the dairy cows in Ontario in 2001 that we had 75 years ago, and yet we produce as much milk. In the beef industry, the story is similar. According to Graeme Hedley, the general manager of the Ontario Cattlemen's Association, as of June 1981 we slaughtered over 2 million head of beef cattle in Ontario; this year, for the 12 months ending July 2001, we had only slaughtered a little over a million and a half head of cattle, a 25% reduction in total. As well, in 1980 we were finishing some 500,000 head of feeders, which were trucked from western Canada, and now we are only bringing 125,000 head of feeders from the west to finish, a 75% reduction. Seventy-five years ago, cattle acquired most of their water from the streams. As the numbers have declined, there has been a loss of farmers as well as a reduction in the potential for pollution. I simply ask, where is the problem? Is Bill 81 going to solve a real or a perceived problem, based on numbers?

While studying Bill 81, there appear to be some good aspects and some which need further review from a practical point of view. It is almost impossible to be specific without the regulations being in place, but I will try to articulate some of my concerns.

The open municipal drain—and I have to say that I'm just following Jim Oliver—the beginning of the big creek which starts just north of my property, has been polluted by what appears to be liquid manure for four of the last five years. I am concerned. We have called Ministry of the Environment officials each time we observed a spill. Each time, the occurrence happened on a Friday

afternoon preceding a holiday weekend. The spill was complete before an inspector could arrive from London or Cambridge to take a sample. It seems very strange that I can take a water sample for myself and have it tested, yet I cannot take a sample from a stream and have any credibility. If spills are going to be addressed in a timely manner, the resulting bureaucracy will have to be large and very expensive.

While recognizing the need for provincial officers to enter a property in a timely manner to acquire evidence, biosecurity measures must be a priority. We have recently watched the decimation of the livestock industry in Europe as hoof-and-mouth disease moved unchecked until biosecurity was enhanced. Biosecurity is a major issue that must be addressed, and I would hope that provincial officers would be knowledgeable and respect the "No Admission" signs. Biosecurity must be enshrined in the legislation.

Under the proposed legislation, I question why anyone would ever appeal an order of a provincial officer, since the appeal process allows the director to do nothing for seven days, and that will confirm the order of the provincial officer. Obviously, this process must be addressed so that all appeals are validated within the allotted time frame.

From a practical perspective, it appears that this government believes that all farmers lack knowledge and therefore they must teach us and have us pass courses in order to get paper qualifications. Is there anyone on this committee who understands the complexities of today's farming operations and the variables that can occur during the planting and growing season? I encourage you to please come to our farms so that you may understand the practical complexities.

The provincial officers must have a working knowledge of current farm practices so they may fairly enforce the regulations of Bill 81. Humidity and temperature can change the way chemical fertilizers flow from a perfectly adjusted piece of equipment. I would hope that when salt—a poison, according to our pesticide grower course instructor—is applied to roadways, the government could guarantee the same standards are applied.

Farmers are good stewards of the land. We understand that if we choose to pollute our land, it could be our well that is the first well to be polluted. Having said this, we recognize that there are individuals who are not good stewards of the land and we want those individuals prosecuted, but why add this paper burden and additional bureaucracy to all farmers in order to prosecute a few? My own well is 28 feet deep and cattle have been stabled within 20 feet of this well for over 100 years, and yet our well, when tested in March, was 0 for coliform and 0 for E coli bacteria. I have difficulty understanding: where is the problem?

Paper qualification and paper trails seem to be the central issue of Bill 81. I personally have a fertility record that goes back to 1970, based on soil test recommendations showing the amount of fertilizer

applied, date planted, chemicals applied, date harvested and yield. Is this the type of information desired? Please keep the type of information required at a minimum and practical in order that a high percentage of nutrient users will co-operate. Cash crop farmers as a group do not pollute groundwater. Anyone who believes they do should price fertilizer along with other crop inputs. Check the current market prices; you can't today because the markets are closed. Allow for a return on investment and owner's time to realize that we reduce our inputs whenever we can. We all plan for an average growing year, but sometimes nature can change the best plans. Cash crop farmers are the least of this province's worries.

If agricultural users of nutrients are required to be licensed, then all users of nutrients should be licensed under this bill. Large international companies bring nutrients into this province for packaging and retailing. Where is this paper trail to the end user under Bill 81? All plants which grow use nutrients and will decay into nutrients—nitrogen, phosphorus and potash. Therefore, all residents who grow gardens or lawns or use nutrients should be covered. Big-box stores, small stores and lawn and garden centres sell nutrients, from chemical fertilizer to moo poo, and should be licensed if farmers have to be licensed, and have to provide a paper trail. How much dried sludge from cities is brought into this province from outside our boundaries to be mixed and processed for the retail market?

If society is really concerned, then government must ensure that all society walks the talk with their practices and their pocketbooks. Do not just target the farmers, because they are only 2% of the population. A weighty piece of legislation may have a short-term feel-good effect, but what we need is a change of mindset. Good stewardship is everyone's responsibility.

Under section 6(c), "location and operation of feed lots and other places where farm animals are kept outside," will this restrict the cow-calf operators who feed their animals outside all winter from carrying on their normal farm practice? Other cow-calf operators keep their cattle inside in barns and yet they may be limited or prohibited from spreading manure during certain months. Manure is manure whether it is distributed from a spreader or directly from the back end of a cow or any other animal. The rules must be the same for the whole industry.

Section 6(d), "restricting the access of farm animals to water and watercourses": I recently visited a cow-calf operation that has a stream running through the middle of the farm where the cows have pastured for many years. The stream was checked for fish species two years ago by the Ministry of Natural Resources. Their results were very interesting. They found 14 species of fish, including brown trout, a species that will not survive in polluted water. In a distance of about two thirds of a mile, the cattle used four places where they crossed. If that farmer had to fence that stream, I would estimate he would lose one third of his pasture land, and that lost land would make that operation unprofitable. Do you really want to

force people out of business? Without government assistance to build and maintain fences, we will lose many responsible operations.

While I am on the subject of watercourses, I would like to tell this committee that setbacks from watercourses would have a negative effect on my business, since I own land on both sides of an open municipal drain for a distance of 2,660 feet. If a setback of 10 feet were required, I would lose 1.2 acres of land from production. Some of this land I recently purchased for \$4,000 per acre. Compensation for lost production must be included in Bill 81.

In summary, I would again like to thank the committee for this opportunity. We must be diligent in stopping pollution from any source, but let's not throw the baby out with the bathwater. As a father of two daughters who have moved outside of our province to find employment, I do not want to see the next generation of farmers move outside of Ontario because of restrictive legislation. If this bill is for the benefit of society, then society, through their government, must assume the cost of capital projects. Please do not create a bureaucracy that could very easily become unmanageable.

Under section 5, dealing with delegation of powers, this power must not be moved outside of the government, because of the confidentiality of the information which must be provided.

As part of society, I encourage this committee to ensure that the government brings forth a bill that is sensible, practical and workable, a bill that is a carrot, not a stick.

The Acting Chair (Mr Marcel Beaubien): I'll give each caucus 30 to 45 seconds for a quick question. Ms Churley, I'll start with you.

Ms Churley: That's not enough time for my question, believe me.

The Acting Chair: I know, but it's either that or nothing.

Mr Smith: Ten minutes wasn't enough time for my presentation either.

Ms Churley: So I'll just thank you for hearing it from your perspective. It's interesting to me to be hearing not just from organizations, but from individual farmers and their perspective and the impact it would have on them. So thank you. That's all the time I've got.

The Acting Chair: The government side?

1440

Mr Galt: Thank you for your presentation. I knew a Lion had to be coming forward with a good presentation.

In your second paragraph you are talking about reduction of cattle and the potential for contamination etc. I've often reflected, maybe not with those figures but in a similar vein, on the small farm. The big concern currently seems to be the potential of the very large ones. That's probably what got this whole thing rolling two years ago. We hope to be as practical as we possibly can. We look at the Pesticides Act, the reduction of pesticides, applications and certification, and that seems to have had a good buy-in from the farm population. We'll probably

be looking at a lot of the application to nutrients, not in exactly the same way but as it relates to nutrients.

The Acting Chair: Thank you very much, Dr Galt.

Ms Churley: I'd ask for more time after that.

Mr Peters: You've got an issue going on in your own backyard right now about a farm expansion.

Mr Smith: Yes.

Mr Peters: If this legislation were in place today, would we have what's going on in Otterville right now?

Mr Smith: Oxford county has the requirements in place. He superseded all of those requirements and still the uproar continues, Steve, and I really don't understand it. I would hope that the provincial legislation would stop it, but I also know that I heard earlier from one of the questions that people around that don't want to have anything to do with it, based on Walkerton. They don't base it on facts. I think the government had enough people sitting in Walkerton to understand what really happened there. A lot of things happened. It wasn't just agricultural nutrients. People are petrified. I was at the site, and the well there is 142 feet deep. It goes through clay.

One of the things I want to bring out, as a councillor in Norwich township, is that the clean water agency ran our sewage lagoon and decided, in their wisdom, to utilize an intermittent sand filter to filter the sewage that comes from the lagoon. It made good sense to me. Sand is sharp and it cleans it out, and it's irrigated over the land. It drains right down into that shallow aquifer. When we talk about sand, we'd better remember that this government has already made a commitment that sand is utilized by OCWA.

The Acting Chair: On behalf of the committee, thank you very much for your presentation this afternoon.

VALERIE M'GARRY

The Acting Chair: Our next presentation is from Valerie M'Garry law office. I would ask the presenter to come forward and state your name for the record. On behalf of the committee, welcome.

Ms Valerie M'Garry: I apologize I'm late.

The Acting Chair: We're running late, so you're on time.

Ms M'Garry: The police have blocked off the road I usually take here and I got lost in St Thomas.

Ms Churley: Why did they close off the road? Is there something you know that we don't know?

Ms M'Garry: No, but I work in a high-rise tower and, I'll tell you, half the building was empty this morning.

Since my time is short, I will commence, if I may. My name is Valerie M'Garry. I am in private practice currently in the city of London. I've been practising law for 23 years, but the last 12 or 13 of them I have practised exclusively as a municipal and administrative law specialist. I was in-house counsel to the city of Sarnia for 10 years and, as I said, I am now in private practice. It's been my privilege to be involved in a number of the court actions that are going on around this

province involving prospective, usually intensive, livestock operations, municipalities that may or may not have nutrient management planning in place and citizens' groups. So I have a special interest in this legislation.

It's hard to comment on the legislation as it stands because from my perspective it's more a framework. It's got very broad enabling powers but, until we see what all those regulations are, it's really tough to comment on how things are going to work. In my former life I was a criminal law lawyer, so the quasi-criminal component of it and the structure that's been put in place are intriguing. It's an interesting combination of an administrative tribunal structure with a kind of quasi-criminal bent to it.

That said, however, I have been saying to the various groups I've been representing in the last few years that we really hoped I was going to be put out of the business of swimming in what turns out to be, in Ontario, mostly hog manure. If I were in Alberta, it would be beef. With the greatest of respect to the attempts of the legislation to do that, this legislation isn't going to do it. One of you put the question to the previous speaker, if this legislation were in place now, would the battle going on in Otterville be happening? If it's anything like the battles I've been involved with elsewhere in this province, yes, it would. The reason for that is because the focus on nutrient management planning as the solution is, with the greatest of respect, short-sighted, wrong-headed and misses some critical elements.

It misses from two standpoints. The first is that we are by now talking about volumes that are beyond anything contemplative when nutrient management planning as a program that could be followed by a farmer was first contemplated. One doesn't have to be a rocket scientist. If you take a dry sponge and pour water on it, it gets to a point where it won't take up the water any more, and that's the kinds of volumes we're talking about. Often in areas of this country, where the soil and the watershed are already severely damaged by all kinds of things—existing agricultural practices, existing municipal practices—there's a combination of factors that are in effect, but we can't ignore the reality of what's there now. I'm involved in one action where we've just discovered all of the watersheds are currently exceeding provincial water quality standards by virtue of commencing the action and getting hydrogeologists to look at the site-specific conditions. That's one of the other problems with the legislation as I see it. I do think there needs to be a provincial level of control in the sense that water doesn't respect the boundaries between municipalities but, at the same time, there has to be regard had for the specific local conditions of a particular site.

The more important reason why, in my view, this legislation won't solve any problems, and just as an aside, it seems to me that it's putting in place a very large, possibly unwieldy but certainly expensive bureaucracy to implement a system that's going to be very hard on the farmer and, as I said, isn't going to solve the problem.

The other reason it won't solve the problem is because nutrient management planning is an agronomic tool. It does not address the control of pathogens. Pathogens, bacteria, protozoa: it doesn't address those, it doesn't deal with those, and those things can get through a nutrient management plan. Walkerton demonstrated that. There are other problems with Walkerton, yes. But the fact of the matter is that manure spread in accordance with normal farming practices managed to infiltrate the groundwater and no amount of chlorination, certainly no amount of nutrient management planning, was going to address that particular bacterium, that particular pathogen.

The other thing it doesn't address is the non-therapeutic sort of consistent daily use of antibiotics. There is an increasing body of evidence that the suspicions of some people are in fact coming true, that the subtherapeutic use of antibiotics is creating superbugs and super-resistant bugs in humans and leading to, of course, a loss of effectiveness of all of our existing antibiotics.

What is the answer? Well, there is a whole list of things that I think could be pulled out from consultations with various people. I should indicate, by the way, that some of the witnesses I've been using and the various actions I've been involved with are ex-OMAFRA engineers. To a person, they will not agree with you. They won't say or agree that nutrient management is an answer to the protection of our groundwater, source water, surface water. It is a mistake to think that environmental farm plans and nutrient management planning are in any way a substitute for some kind of scoped environmental assessment.

I know from my municipal experience that EAs as they are currently structured are a huge undertaking. They are enormously expensive, and I'm not suggesting that any farmer in this province should be required to undergo a process as it presently stands. But I think the government could very easily draft, with the assistance of some of the experts out there, a kind of scoped EA so that you get some site-specific hydrogeo evidence. You make things like third party review, independent review and site verification of data mandatory, because one of the things that happens with all the nutrient management plans right now is that there's no independent verification. It goes to OMAFRA, yes, but they don't go out and check the site. I haven't looked at one yet where the slopes weren't grossly understated, where buffers that are supposedly there are there. When you look at it on the ground and you look at it on the paper they seem to be two very different animals, in my experience.

1450

So there are a lot of things that could be done to tighten up the NMP process, but that's still not going to address the basic problem, which is that there has to be some hydrogeo investigation undertaken to determine, is this watercourse already too polluted to take anything more? Is the soil already too polluted to take any more? We don't need to reinvent the wheel. The situation in the

Netherlands, for example, is that they're trying to get completely away from the injection and spreading of manure because their ground has just become so saturated that it can't take any more. It's one of the reasons why we see so many farmers coming here for better land and better opportunity.

I will say to this group, it sounds like what I'm suggesting is going to be expensive and difficult and impossible for even modest-sized farms to undertake. First of all, you can distinguish between intensive livestock operations and something more modest in scale, but more important—and I hear the speakers who are saying the rules have to be the same for everybody—the costs of all these things have come so far down, it's unbelievable. I've seen demonstrations of a technology that would retrofit an existing hog barn, in the current method that's used, for 4,000 hogs for about \$150,000. When you factor that into the cost of building that barn and the size of that operation, that is now peanuts.

Most of the technologies that are now coming on-line involve—it's odd, frankly—stepping back in time in some way. They involve composting in some form or other. There is so much information out there now, and composting done properly destroys those pathogens. There is one particular facility—and I will leave you the information on it—that's quite a large operation in Alberta, and looking to locate in Saskatchewan, called Pure Lean Hogs, a huge, 9,600-hog barn—no odour, no nothing. They produce millions of litres a year of compost. The end result is that they don't have to use, because they don't use consignment operations, sub-therapeutic antibiotics and they make money; they make good money. Unfortunately, the perception out there is that the only way to do it is the way we seem to have been headed: into these huge barns and treating manure the way we've been treating it all along but just in larger volumes. What I'm saying is that we need to step back.

The reality is, it seems to me, that we'll either be paying now or paying later. We'll end up with more and more Walkertons on our hands and other damages. Municipalities are getting challenged on their assessments all over the place now. It's happened successfully in Alberta and at least four cases in Ontario that I'm aware of. That's an attack on the municipal tax base. It's indirectly a tax on all the citizenry. We have all these divisive lawsuits going on; that's an indirect tax on everybody. In one lawsuit alone that I was involved in, the hog farmer spent in excess of \$150,000 in legal fees. I just wanted to walk up and hit him and say, "You know, if you'd just put that into the new technology, we wouldn't be having this problem." So when I say you'll either pay now or pay later, maybe what we're going to have to do is have bigger setbacks around wells and pay for all the groundwater studies everywhere, determine all the drawdown and recharge areas and do all the groundwater mapping—that's a big cost—and then determine where agriculture can locate until we know for certain what the situation is.

I think I've probably exhausted my time.

The Chair: Yes. Thank you, Ms M'Garry. We appreciate that input. We have used up the time allocated for your presentation.

DON CROMARTY

The Chair: This concludes the deputations on our agenda. However, we have had a request from a gentleman for five minutes. Could I ask this person to come forward for five minutes? This is Don Cromarty. Have a seat, sir. We are able to squeeze you in, but we do have to travel to Chatham.

Mr Don Cromarty: Thank you, Mr Chairman and committee. I just want to take a brief moment. My name is Don Cromarty. I have spent 20 years on a large dairy farm. I practised law for 35 years and am now retired. Also, in the farming operations I am well acquainted with the loading, hauling and spreading of manure from our dairy operation.

I feel that we have a serious problem in southwestern Ontario. Mixed farming has now changed to cash-cropping and to factory farms. The factory farms in fact, if you have 2,000 or 3,000 hogs, are similar to a small village or town. The province has found it necessary to withhold the approval of any plans of subdivision on the villages or towns unless they're on full-treatment services, that is, a treatment plant. My feeling would be that this is very similar to the new factory farms that are cropping up. Many of these factory farms are in fact owned by investors, not necessarily farmers but investors, with large amounts of money who hire a person to operate these factory farms.

I'm pleased that the province has taken steps to consider this very serious question, because the existing official plans and bylaws and the agricultural code of practice that's incorporated into the bylaws is not sufficient to control the factory farms. If a farmer makes an application to the municipality and complies with all the terms and regulations, he cannot be refused a permit. I think we need new provincial teeth to withhold the issuance of a permit if they feel it's in the best interests of the province of Ontario and the residents of Ontario.

I also have a cottage in Grand Bend. This summer we had very little rain in Grand Bend, and there are existing factory farms within two miles of the Grand Bend area. At about 6 o'clock on Monday morning after the civic holiday, the odour from the pig manure was just unbearable. People in the park had to get up and close their windows because of the odour drifting from the factory farm across the fields, because we had no rain. This affects about 5,000 or 10,000 people who have cottages all along Lake Huron. If this continues, and the farmer who is presently making money with one barn will now make application for the building of two barns

or three barns or four barns, that will only compound the problem as far as the cottagers are concerned. It will only be a question of time before the cottage owners take the necessary class action to reduce their assessment by virtue of the fact that the market value of that property has depreciated.

I am, with respect, recommending to the committee that they give consideration, effective immediately, to the passage of a moratorium to withhold the issuance of any building permits for any new factory farms until this matter is dealt with, and that those factory farms that are presently in existence be granted a five-year period to comply with the new legislation that should become effective.

Also, with respect to the cottage owners along the waterways of Lake Huron, Lake Ontario and Lake Erie, that there be a restriction that no factory farms be built within an eight- or 10-mile distance of the lakeshore.

We need something to protect the cottage owners. The cottage owners are prepared to accept the mixed farming operations that have been there for the last 40 or 50 years, but today the playing field is different. We have factory farms that are polluting the streams when we have rain or polluting the air when it isn't raining.

In conclusion, I would say that someone has to be accountable, and it's the municipality or the province or the federal government. I think the residents of Ontario deserve better. I appreciate your time. Thank you very much.

The Chair: Thank you, Mr Cromarty. We appreciate your deputation.

In conclusion, I have some information for the committee. The bus is ready to go to Chatham, the Best Western Wheels Inn. The hearings tomorrow are in Chatham at Smitty's restaurant.

I will also mention that we received word that the Legislative Assembly is open in Toronto. However, all provincial government buildings have been closed. So if anyone is rushing back to their office or phoning, that may explain why you may not be able to do that.

Ms Churley: Mr Chair, just briefly on that same subject, Mr Martin from Sault Ste Marie is supposed to be subbing in for me tomorrow and I just got word, because of all the cancellations in flights and various changes, that he may not be able to make it. So I apologize in advance if tomorrow there is no member from our caucus. He will make every attempt to be there. I just wanted to let you know there's a bit of a problem.

The Chair: Thank you for that information.

Mr Galt: We could loan her one of ours.

The Chair: We are adjourned.

The committee adjourned at 1503.

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Wednesday 12 September 2001

Journal des débats (Hansard)

Mercredi 12 septembre 2001

**Standing committee on
justice and social policy**

Nutrient Management Act, 2001

**Comité permanent de la
justice et des affaires sociales**

Loi de 2001 sur la gestion
des éléments nutritifs

Chair: Toby Barrett
Clerk: Tom Prins

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY

Wednesday 12 September 2001

The committee met at 1012 in Smitty's Restaurant, Chatham.

NUTRIENT MANAGEMENT ACT, 2001

LOI DE 2001 SUR LA GESTION
DES ÉLÉMENTS NUTRITIFS

Consideration of Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts / Projet de loi 81, Loi prévoyant des normes à l'égard de la gestion des matières contenant des éléments nutritifs utilisées sur les biens-fonds, prévoyant la prise de règlements à l'égard des animaux d'élevage et des biens-fonds sur lesquels des éléments nutritifs sont épanchés et apportant des modifications connexes à d'autres lois.

The Chair (Mr Toby Barrett): Good morning, everyone. Welcome to this regular meeting of the standing committee on justice and social policy for Wednesday, September 12, 2001. We are meeting at Smitty's Restaurant in Chatham. Our agenda for the day, as people realize, is Bill 81.

Mr Martin from the NDP was unable to get a flight today, so the NDP will not be represented today. I think we understand the reasons for that. In fact, before we begin, there would not be a person in this room who has not been following the events in the United States. On behalf of the committee and everyone in this room, our thoughts are with the victims and their families in what has gone on in New York and in Washington.

Mr Doug Galt (Northumberland): I'd volunteer one of our members to fill in for the NDP.

The Chair: I see no support for that. We don't want to have a list; we're going to tilt to one side.

Mr Galt: Just trying to be helpful.

The Chair: You can sit on that side if you wish, Dr Galt.

Our first order of business today is to hear delegations. Individuals are given 10 minutes at the witness table and organizations are allocated 15 minutes. We encourage people to allow a few minutes for comments or questions from committee members. As you can see, the committee members do like to put in their two cents' worth or

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Mercredi 12 septembre 2001

inquire further in what is a pretty complicated and important issue that we're dealing with.

CAROLYNNE GRIFFITH

The Chair: Our first deputation, if I could ask Carolynne Griffith to come forward. Welcome this morning. If you wish to identify yourself for Hansard reporting services, and proceed.

Mrs Carolynne Griffith: Good morning. My name is Carolynne Griffith. My husband, Arthur, and I have been working together on our family farm in Lambton county, seven miles east of Petrolia, for the past 38 years. Our farm produces eggs and cash crops of soybeans, wheat and corn. Arthur's grandfather, Wellington Griffith, began clearing this farm back in 1901, 100 years ago. It is our hope that our children and grandchildren will be able to continue working there, where their roots run deep. That's why I'm here today to support the upcoming legislation in Bill 81.

Thank you for coming to Chatham and giving family farmers such as myself a chance to voice our opinion on this important issue of nutrient management. You have probably read in some of our local papers about Lambton county attracting farmers from Europe, because the rules governing manure spreading are less stringent in Ontario than from where these folks have come. We as farmers really do not need this kind of publicity. Most farmers here believe that Bill 81 is an important and long overdue initiative. We applaud your efforts in developing legislation that will preserve our environment, as well as protect jobs in the rural communities of Brooke-Alvinston, Petrolia and Watford.

I have spoken to a lot of the farmers and their families who share the ministry's interest in developing province-wide standards to ensure that rural communities such as ours thrive in a healthy and sustainable environment. As one paper recently wrote about our local situation: "Individual plans don't have the same weight as government regulations." Yet legislation for legislation's sake is not the end goal. Otherwise, we will be in danger of regulating farmers out of farming. We must be able to continue to manage our operations in an effective and efficient manner, free from arbitrary legal constraints and overbearing costs. I believe this can be done by developing a balanced approach with reasonable and attainable goals.

These new guidelines I believe have evolved from a proactive initiative begun over 10 years ago with environmental farm plans. Many egg producers that I know already have a nutrient management plan in place. However, as I mentioned, legislation will require a more formalized and universal system. Because investments will be required in education and capital improvements, farmers such as myself will need a minimum of five years to ensure a smooth transition and completion of any new structural requirements.

As to enforcement, we are farmers operating a business and we expect that enforcement of these new rules will be governed by the ministry that understands our business, the Ministry of Agriculture, Food and Rural Affairs. Strict adherence to and enforcement of Bill 81 will be the best way to protect our environment and promote harmony and respect among all rural residents of Ontario.

The key to developing new nutrient management legislation will be through a balanced approach with reasonable and achievable goals, over time. Only by doing so will we ensure that no additional financial burdens will be slapped on the backs of farmers. So when you consider this new legislation, please keep in mind that where we work is also where we live. Let's focus on both renewing and protecting our land while preserving our way of living and working in rural Ontario.

In summary, I would hope that this bill will ensure that our natural resources of air, water and land will be protected for future generations, as well as ensure viable communities in rural Ontario for tomorrow.

Thank you, and I would be pleased to answer any of your questions.

1020

The Chair: We have two minutes for each party and we begin with the Liberals.

Mr Pat Hoy (Chatham-Kent Essex): Thank you very much for being with us this morning and for your presentation. You mention that farmers such as yourself will need a minimum of five years to ensure a smooth transition and completion of any new requirements. I'm hearing from a lot of farmers in this regard, in terms of capital improvements, that they believe, depending on what the government eventually mandates through regulation, they should receive some compensation, some monies, to help them offset capital improvements, for example. Lenders are not often anxious to lend money unless there are productivity gains, and this wouldn't necessarily give you productivity. It would protect the environment, most assuredly. Then there's the question of the smaller producers and their ability to cope with regulations that may come. Would you agree that some form of assistance on capital improvements should be part of the government's consideration and they should actually do that?

Mrs Griffith: Yes, by all means. As egg producers, many of us who have redone our facilities have already put in new manure storage and done this on our own initiative without any government legislation. However,

if this new legislation allows for fairness and equality among all farmers, then everyone should be treated equally and any new investments that will have to be made to protect the environment, they'll be able to do it.

The Chair: I will now go to the PCs.

Mr Marcel Beaubien (Lambton-Kent-Middlesex):

Thank you very much for your presentation this morning, Carolynne. You mention in I think your second-last paragraph, "Let's focus on both renewing and protecting our land while preserving our way of living and working in rural Ontario." I would agree with that. I would also agree that the ministry that should be looking after the regulation and the enforcement of this particular bill is the Ministry of Agriculture, Food and Rural Affairs. But I have a sneaky suspicion that the urban setting—and I wish the NDP were here today to put their point of view on the record. I would suggest to you that the Ministry of the Environment is probably going to be looking after the regulation, legislation and enforcement. How would you respond to that? How would you try to convince the people who are pushing for that to look at the other aspect, that maybe the Ministry of Agriculture, Food and Rural Affairs should be looking after that?

Mrs Griffith: As I said in my talk, because the Ministry of Agriculture and Food understands what we do in our work, and our work depends on safe land and safe water supplies, we hope they would be the ones that will do it. That's not to say the Ministry of the Environment can't; it's just that we feel we are environmentally responsible in what we've done for the past 100 years. Our land is the basis of our business, and if we don't have safe land, we can't produce safe food. As egg producers, we've initiated a lot of our own programs in order to assure consumers that they are buying the safest possible food in the world. We've done this on our own initiative, and with some legislation that will ensure that everybody follows the same guidelines, we hope this would make it better for all and safer for all our consumers.

The Chair: On behalf of the committee, Mrs Griffith, we thank you for coming forward and appreciate your input.

SCOTT McGEACHY

The Chair: Referring to our agenda, the next presenter is Mike Buis, speaking on behalf of himself. However, I understand he is not present. Scott McGeachy wishes to speak in his stead, I understand, with permission. It's not as if they're representing an organization. Is it the wish of the committee that we go forward? Yes. So we would ask Scott McGeachy to come forward. We have 10 minutes. If you wish to proceed, I'll get you to identify yourself for the Hansard recording.

Mr Scott McGeachy: My name is Scott McGeachy. I farm approximately 1,000 acres in the municipality of Chatham-Kent. My livestock operation includes two feedlots with a capacity of about 1,000 animals. We are seasonal.

I also come with some background, not representing any committee, but I do have involvement—I'll be very frank about it: I am part of the municipal nutrient management committee that is now in place, as well as president of the Kent Cattlemen's Association, but my comments are strictly of my own personal nature and are not set around the OCA or the nutrient committee, which I understand will be presenting later.

I did read most of Bill 81. There are some issues that I wish to address. As we all know, agriculture is an intricate part of the economy in southwestern Ontario. Farmers have been proactive in the past decade dealing with programs such as the nutrient management program in various counties, as well as the environmental farm plans at times—tools which aid them in developing some very good nutrient practices, to the point where some have implemented use of eavestrough development, and manure storage capacities as far as the grant would provide, and continue along the lines of even the best management practices that have been implemented through the province. As you know, many local agricultural advisory committees have been set up. Chatham-Kent is nonetheless trying to stay in the forefront and in many respects yields a leading edge.

One of the things I wanted to deal with today, which I didn't feel was necessarily dealt with, is along the lines of environmental issues. In southwestern Ontario, and particularly in Chatham-Kent, we are at an elevation drop from the London region of about 49 feet. Included with that are the recharge areas, the aquifer that has been done by various reports. It tends to concern me if perhaps the bill only addresses on a broad spectrum the approach when it comes to livestock animal units and the potential for contamination. In other words, I think the committee, as it develops the bill, should carefully review and maybe even leave some room for the municipality to develop sensitivities around those areas. I realize it's not an easy issue to deal with but it is a concern that localizes itself to each and every county.

The other issue is the development of some sort of protocol on not only the bacterial side but also the nutrient management standpoint as far as MP and K. In many respects we're streamlining the development of vaccines to try and deal with E coli 157 and other elements that are coming down, such as microplasma. In streamlining, there's a great deal of threat—potential threat, I should say—that we may just open up another can of worms. There should be something for both the rurals and urbans to recognize the potential, that there is a difference between the two, between the nutrient management and the bacterial side of this whole issue. Whether we can streamline both together or set a standard that deals with one versus the other is something that I can't answer and don't have the background for, but it will be an element that should be of concern.

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One thing I wanted to talk about as well was the implementation, such as product use timeline, and how quickly this will be added in. Five years seems to be an

appropriate timeline for this bill to be rolled into full effect, certainly realizing that agriculture has been striving to catch up with what technology has allowed us as humans to discover about bacteria and threats to ourselves, but allow agriculture to catch up.

The use of financial programs I don't think is any answer for the farming sector, but I do think there are programs that are of potential, such as carbon credits, that could be implemented not only provincially but federally that would aid in farmers running full circle not only through nutrient management but a full ecologically balanced system. That would thus provide an additional income to farmers.

If there is something to be done as far as implementing the bill that would cause some monetary effect, it would be recommended that that program be set up. There are many counties that have done just that to aid in the development of proper manure storages, different programs that allow them to apply at certain times. I think in particular of the Wellington-Guelph region, which has implemented a very excellent program in aiding both from a rural standpoint and an urban standpoint. In respect of the urban, we can certainly think of septic tanks and how that would affect every person who is threatened by that potential seepage.

In Chatham-Kent, I believe the number is approximately 30% of the rural people who are still on wells. Certainly programs that are in place for potential contaminants, which comes back to the point of recharge, would be the abandoned wells and keeping the programs in place to aid farmers or rural residents to cap them properly.

As far as implementing or controlling the programs, certainly OMAFRA is a key point. The timelines as far as OMAFRA and MOE developing standards or implementing the bill I think are very timely. MOE certainly has the expertise to come in. Please understand that penalties for someone causing an infraction should be severe enough so he or she realizes that this is something we all have to deal with, and we all should be concerned.

Certainly one element that farmers are concerned about is the proposal of restricting cattle access to waterways. The access points in many respects are flood plains. I think it's well recognized that farmers are implementing such things as buffer strips and other measures that may play an effective role in the water quality. In many respects it's those grazing areas that allow farmers to have a few extra cattle, to put food on their table or add an additional income.

The last element I want to talk to you just quickly on are the new standards as they may supersede the bylaws that are now in place. I've had the chance, because of sitting on the municipal committee, to read more than my fair share of county bylaws that go straight across the province. I think in many respects some counties have developed very excellent programs. Again, I think the element of ground sensitivity should be on a county level, but there is still room that allows for the counties to add in. I understand that they cannot take away from the

provincial standards and they should not supersede anything as far as capping the size of livestock operations such that it would cause a detriment to the existing operations.

Anyway, I do thank you for the opportunity. I must say, just off the record, it was one of these things that in this weather everyone is doing silage right now, and between the three of us we did want to make a representation here. We did not want to miss the opportunity, and I thank you again.

The Chair: Thank you, Mr McGeachy. We appreciate you making the effort.

ONTARIO SOYBEAN GROWERS

The Chair: I wish to call forward the Ontario Soybean Growers. Good morning.

Mr Bill Allison: Are we dressed? I didn't put a tie on. I didn't think I had to.

The Chair: Yes, I didn't have to change my oil this morning after all—checking the oil.

I'll ask you if you could both identify yourselves for the purposes of Hansard, and we have 15 minutes.

Mr Allison: Sure. I'm Bill Allison. I'm vice-chair of the Ontario Soybean Growers. I'm a farmer from Halton region.

Mr Greg Hannam: I'm Greg Hannam, a soybean grower from the Guelph area and a director from Wellington-Waterloo region.

The Chair: Thank you. Please proceed.

Mr Allison: We're presenting on behalf of the Ontario Soybean Growers. We're a producer organization representing over 25,000 soybean growers in Ontario. Our purpose is to develop and promote a sound business environment that will allow Ontario soybean producers the opportunity for viable and profitable ongoing returns.

In this issue we've been dealing through AGCare and the Ontario Farm Environmental Coalition for a number of years. Both of us have been involved in AGCare. In fact, I've been involved in the nutrient management issue over a number of years. I guess I want to emphasize that that's the main area we've been working through in this area as a coalition. AGCare and the environmental coalition have been taking what we've developed ahead. What I'm going to present today in our position statement very much reflects what they're talking about but it's just to reinforce that, and it's very peculiar and specific to the Ontario soybean industry as crop growers.

Ontario Soybean Growers are strongly supportive of responsible nutrient management planning for all agricultural producers, and welcomes the introduction of the proposed Nutrient Management Act. This act will apply clear and consistent standards throughout Ontario for the application of land-applied materials containing nutrients related to agriculture.

The establishment of provincial nutrient management standards and monitoring/enforcement authority will provide improved consistency and predictability for farmers in relation to agricultural nutrient management issues.

We are pleased to see that the draft legislation adopts many of the recommendations proposed by farm groups in earlier stakeholder consultations, and are encouraged that provincial officials will continue to consult with stakeholder groups to ensure the development of effective and practical guidelines for the development of nutrient management plans.

Ontario Soybean Growers are very pleased with the draft legislation's emphasis on science-based guidelines; however, we are concerned that there are still significant gaps in the technical knowledge required to develop such guidelines.

I'll let Greg explain that further. He's a member of our research and technology committee and deals with research.

Mr Hannam: More research is necessary in the area of nutrient management in order to determine methods of optimizing crop fertility programs while minimizing negative environmental impacts and maintaining or enhancing producer profits.

Therefore, in order to facilitate the undertaking of economic and environmentally sound nutrient management planning, the Ontario Soybean Growers recommend that the Ontario Ministry of Agriculture, Food and Rural Affairs and the Ontario Ministry of the Environment direct additional funds and resources toward research into fertility management issues. The scientific information gained through this research will ensure that nutrient management planning benefits both the environment and producers.

The draft legislation's proposed five-year phase-in period, after which all Ontario agricultural producers will be required to have a formal nutrient management plan, will be challenging given the need for further research. However, the Ontario Soybean Growers recognize the need for issues related to nutrient management to be addressed in a timely manner.

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One key area that needs to be addressed in this issue of financial assistance is financial assistance for farmers to help offset the increased costs involved in meeting enhanced regulatory requirements. Because the benefits to be derived from the proposed Nutrient Management Act, 2001, will be shared equally by Ontario residents, the Ontario Soybean Growers believe the costs should be shared as well, rather than borne by the province's agricultural producers alone.

In addition, the Ontario Soybean Growers believe it's critical to keep the administrative burden associated with complying with this legislation to a minimum for Ontario producers.

Mr Allison: Finally, in regard to the administration and enforcement of the proposed Nutrient Management Act, the Ontario Soybean Growers recommend that the Ontario Ministry of Agriculture, Food and Rural Affairs be named as lead ministry. Given that much of the activity will be focused on training and education of farmers, as well as the approval of nutrient management plans, the Ontario Soybean Growers believe that the

choice of OMAFRA as the lead ministry will greatly ease the administration of the act.

In conclusion, the Ontario Soybean Growers would like to thank the committee for providing the opportunity to present our views here today regarding the Nutrient Management Act. I guess we can entertain questions; I don't know the procedure.

The Chair: Certainly. That would leave a little over three minutes for each party. I'll now begin with the Conservatives.

Mr Beaubien: I have a quick one. Thank you for your presentation this morning. When you mention about assistance for farmers to help offset the increased costs, what are you looking for? Are you looking for tax credits, low-interest loans, grants? Can you be more specific as to what type of financial assistance you're looking for?

Mr Steve Peters (Elgin-Middlesex-London): Why don't you give him the other big pitch too right now?

Mr Allison: We have many areas that we need assistance in. We're looking at a very severe issue with price, the fact that we are not on a level playing field with the United States in terms of their farm programs and the fact that their support of farmers is a lot more than ours. Henceforth, the overproduction has influenced prices, and that's what we're really dealing with right now. That's an issue that we're coming to and facing on that level. As Mr Peters—

Mr Beaubien: It's OK to get him on the record too.

Mr Allison: We're going to get to you on that level and really talk in that area in terms of how it's affecting our economics, our competitiveness etc. We don't want to tie this in with that. In this area, we're talking about what we're doing for the environment and what we're doing for society, what society has asked us to do, the additional administrative burden, plus there will be large capital outlays for many of these things.

In this specific area, that's where we feel the assistance—you're asking, I guess, specifically what that would amount to and what it would look like. I'd like to defer to the other organizations, the umbrella organizations, that are working on that. But I just want to give sort of a broad policy saying that if farmers are asked to do more in terms of this area and it is for the environment, it is for society, we expect society to come forward and reimburse us and help us do that.

Mr Beaubien: Yes, but how do you want society to reimburse you? Is it through the form of a tax credit or through a grant? I'm trying to have you be more specific as to what your organization is looking for.

Mr Hannam: If I could have the mike, I think it's very hard for us to identify specifically how we want any money put into this project for farmers without knowing what the regulations and the timelines specifically are going to be. I think we are looking forward to participating in that process and identifying what the regulations are, what standards you want us to meet, and at what times. Then we can evaluate the best vehicle for

getting some of those dollars put down to the producers in order that they meet the legislation.

I'm sorry I can't be any more specific than that. I want to help work through the regulations and kind of draw out what our needs are from there.

The Chair: I'll now go to the Liberals.

Mr Peters: John, good morning, and Carolynne, I apologize; I got stopped by a train. I think it was a train of corn heading to the Casco plant. It might have been; it looked like it. So that's OK.

I had a chance to read Carolynne's brief quickly, and she talks about a focus on both renewing and protecting our land. Scott talks about the science of understanding things. You have a real emphasis on research. As much as we've travelled around and we've heard the need that's there with money for capital improvements, this is the other area that has been this really common theme everywhere we've gone, the need to understand the science of an intensive livestock operation, understand the science of applying the nutrients and what we're doing under the ground, with that focus. To me that's something else that we've got to really think about.

I'd be interested to hear from you, Bill. You sit on the research committee. Are there discussions taking place between the pork producers and the cattle feeders? I think you're stressing OMAFRA take that lead. I'd just like to get your thoughts. The general public wants and I think everybody wants to understand the science of a farm because of this emphasis on the environment and what we're doing to it. Your thoughts?

Mr Allison: Yes, we mention in here the technical gaps. We work with a lot of research prioritization. You must understand that the research we have prioritized lately has shifted toward nutrient and fertility. That's what we emphasized in our brief here. You've hit the nail on the head: there are areas out there that we don't have answers for, and we may be jumping ahead in terms of setting down regulations in terms of not knowing exactly what is the right number here, how that affects the whole picture.

The second part of your question, which maybe Greg can answer, is, how are we going to get into our whole research focus and adjust to set the priorities, to set some wheels in motion to address that? Greg, do you want to elaborate on that and how we work within the OAFE system?

Mr Hannam: Thanks, Bill. Part of your question as well, Mr Peters, was about what other groups we are working with. Through groups like AGCare and the environmental farm coalition, we are communicating regularly with the other commodities and other producer organizations and trying to set priorities for research. More and more, the priority of environmental stewardship is getting moved up on the list as a high priority for us. I think as we get a better understanding of where our gaps are, we can start trying to focus more money toward that and address some of these issues.

The Chair: Thank you, Mr Allison and Mr Hannam. We appreciate your presentation on nutrients. I hear what

you're saying on prices. I sold beans for \$10, and that was 20 years ago. Thank you very much.

Mr Allison: Thank you. We look forward to further detailed conversations on this.

DOUGLAS DESMOND

The Chair: As our next deputation, I would ask Douglas Desmond to please approach the witness table. Good morning, sir. We'll ask you to identify yourself for Hansard, and we have 10 minutes.

Mr Douglas Desmond: My name is Douglas Desmond. I'm a lawyer in Ridgeway and a farmer outside of Ridgeway on the north shore of Lake Erie. My family has resided and farmed in Kent county since 1790 and we've been farming the same farm for approximately 200 years. We had a little problem during the War of 1812 and had to move. In any event, we farm about 300 acres of cash crop right now.

First of all, I am sure you can appreciate it's difficult even for a lawyer to comment on an enabling act when the real issue that concerns people is the regulations themselves. However, there seem to be some difficulties with the act, in my respectful view, some glaring omissions. I'm going to try to go through them briefly. I won't deal with all the issues that are raised in my submission, but in my view the most important ones have to do with the following.

In the definition of "natural environment" in the legislation, it includes a reference to air quality. However, under sections 17 and 28, it does not empower a provincial officer to make any order as it affects air quality, which to me is an extremely unfortunate omission. It's fairly clear to me that the drafters even of enabling legislation are not very up to date with respect to any of the science on this issue. It should be remembered that intensive livestock operations are a major source of ammonia, hydrogen sulphide, carbon monoxide and carbon dioxide. This is becoming an increasingly important issue in the United States, which is a little bit more advanced down the research trail than we are. There is also considerable research in the United States to support the proposition that proximity to intensive livestock operations results in neighbours with more tension, more depression, more anger, less vigour, more fatigue and more confusion. I can personally attest to that, having lived in proximity to one of these facilities. Furthermore, proximity to these facilities—as supported not only by research, particularly in the United States, but many legal precedents now before assessment review boards—has a profound effect on the fair market value of adjoining properties.

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In that regard, you should re-examine the definition of "adverse effect" that's referred to in this legislation. The definition of an adverse effect under the Environmental Protection Act and under this act are almost identical, except it leaves out one really important aspect of the definition, and that's the loss of enjoyment of the normal

use of property. If you can't go outside because of the odour or if you're suffering respiratory problems as a result of proximity to these buildings or you have to keep all the windows in your house closed, I would suggest that would affect the loss of enjoyment and normal use of your property. It's not surprising to me that it's omitted, however. I suspect that, by and large, this enabling legislation has been drafted by the Ministry of Agriculture, and I have some submissions on that if I have an opportunity.

Another glaring omission as far as I can tell from this enabling legislation is that it does not permit the Lieutenant Governor to pass any regulations affecting the contents of the nutrients that are being applied to the land. This is particularly disturbing considering the increasing evidence that our rivers, lakes and streams are becoming increasingly overloaded with nutrient pollution. Unfortunately, there is very little research in this area, particularly as it affects hormones, other pathogens. In particular, one of the worries I think livestock producers should have is the heavy metal content that's in their manure as a result of additions and supplements to their feed.

Just to give you a basic example—interestingly, in conjunction with the last submissions—pig manure happens to be overloaded on the phosphate side. In other words, when the livestock producer is applying manure to his land, he's applying it on the basis of a corn crop. It would have to be a corn crop, because soybeans fix their own nitrogen. In any event, the element of the nutrient they're focusing on is nitrogen, not phosphate. It's not a coincidence that we've had most of the beaches in Kent county closed on Lake St Clair and the north shore of Lake Erie as a result of increased algae content in the water, which is by and large normally associated with increased phosphate content in the water. The only factor I am aware of that could possibly tip the balance, since we didn't have this problem five years ago, would be the increased amount of manure flowing into the water systems, in combination, of course, with other elements, including weather.

The fundamental premise of applying these nutrients to land is that nutrients are actually going to be absorbed by growing plant life. The regulations presumably will deal with the appropriateness and timing of application, and in fact they have empowered themselves to do that. But the conclusion of that is that if it's not absorbed by plant life, it will run off into the land. It would be, I think, in the best interests of the citizens of Ontario if they knew exactly what was running into our watercourses. Therefore, it's crucial in my view that this legislation empower the regulators to pass regulations governing the content of the manure or the nutrient, or waste, as we prefer to call it around here.

There are some other issues that I'd like to deal with, but there are my submissions. You can read it at your leisure.

The other disturbing part of this act is section 60, which permits the province to overrule any municipal

bylaw. This is not the appropriate way to approach this. What the province should be doing is passing minimum standards, as environmental laws are constructed in the States. Without getting into the constitutional differences, the federal government in the States would have the power to pass certain enabling legislation or regulations, and then they impose those on the states as minimum standards and then permit the states to increase, but not decrease, those standards.

This is particularly important because the act seems to be taking away traditional zoning and planning powers of the municipalities. There are going to be particulars. If you try to apply one single standard to the whole province, you're not going to be able to take in allowance unless the regulations permit you to do that—and I don't see how they do—to address certain areas.

I'm also a member, as is Mr McGeachy, of the steering committee to draft a bylaw here for Kent county. In that regard, there was a groundwater resources assessment done for Kent county. It indicates—I have a copy of it; you can't have it, but it's here to look at if you'd like—that pretty much one third of Kent county is extremely vulnerable to groundwater pollution. Clearly, you're going to want to allow a municipality to pass a stricter regulation for that particular area or reduce the numbers etc.

There are some other regulations that should be amended as well, and they are also in my submissions, but I direct you particularly to the exemption in section 15 of the Environmental Protection Act, which indicates that it doesn't apply to animal waste disposed of under normal farm practices. I don't want to get into what's a normal farm practice, but suffice it to say it's not identical to proper farm practices.

Those are my submissions.

The Chair: We have merely 30 seconds for each side for a quick comment.

Mr Hoy: Thank you for your presentation today. I agree with you on the comments you made about regulations coming later and this just being enabling legislation. I would think that you've looked at this bill, but for those who maybe haven't seen it, "The Lieutenant Governor in Council may make regulations," and then it goes on through the alphabet—a, b, c, all the way through the 26 letters of the alphabet. Notwithstanding that, it has subsections within some of those. So the government, through the Lieutenant Governor, will have great power to make regulations, none of which we will see until they are produced. I think that is a cause of concern for you and the general public.

Mr Desmond: No, my concern at this stage is with respect to the powers they are not granting themselves.

Mr Hoy: All right.

Mr Galt: Thank you, Mr Desmond, for your presentation. It was much appreciated. Just a quick question. As I understand as we move through this—you're a lawyer, I'm not, but this is preventive legislation. You're expressing this concern over loss of enjoyment of normal use of property. In the case of a spill and the air concerns

you have, would that not be covered under the EPA for the enforcement officers out of the Ministry of the Environment?

Mr Desmond: If they were going to test the air quality.

Mr Galt: But it would come under that legislation rather than this? Would it still not fit there?

Mr Desmond: As far as I'm aware, the Farming and Food Production Protection Act prohibits any action on the basis of odour. In other words, livestock producers are immune from regulatory imposition as a result of the Farming and Food Production Protection Act. It's excluded. They've had a serious setback in a recent case, in Divisional Court I believe it was, with respect to their ability to avoid nuisance law.

The Chair: Thank you, Mr Desmond. I wish your family good luck farming for the next 200 years.

Mr Desmond: Thank you.

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LAMBTON COUNTY NUTRIENT MANAGEMENT ADVISORY COMMITTEE

The Chair: Our next deputation is from the Lambton County Nutrient Management Advisory Committee. Good morning, gentlemen. We would ask you to give us your names for Hansard. We have 15 minutes. Please proceed.

Mr Bill Bilton: Hi, Mr Chairman. I'm Bill Bilton, chairman of the Lambton nutrient management committee.

Mr Don McGugan: I'm Don McGugan. I have been on the nutrient management committee in Lambton county and also president of the Lambton Federation of Agriculture.

Mr Bilton: Just before I proceed, do we have 15 minutes?

The Chair: Yes.

Mr Bilton: I've got quite a bit here in this brief. If I didn't have 15, it might be pretty tight.

In Lambton county we have developed a countywide nutrient management strategy that was implemented in May 2000. Our goal is to implement a strategy that will reflect the environmental responsibilities of producers and still protect the flexibility to undertake or expand animal production in Lambton. We feel that the effect of implementation of nutrient management can be a significant benefit to agriculture producers in the entire community. We commend the members of Parliament present for undertaking these broad public hearings and welcome the opportunity to provide some input based on our experiences in Lambton.

Consultation and communication have been a key part of the success of our Lambton county strategy and we feel they are also critical to the province-wide strategy relating to the proposed Nutrient Management Act. Our county committee included representatives from producer groups, elected officials and citizens with environmental

concerns. We encourage the province to continue this approach of getting input from key stakeholders.

Another prime objective of the Lambton county nutrient management strategy was to provide a uniform, county-approved policy for nutrient management for all municipalities within the county and to assure that all farmers subject to the bylaw were treated equally. We designed our strategy as an interim measure until provincial legislation was introduced that would see all producers treated equally. We are encouraged that the Nutrient Management Act, 2001, is being introduced.

Based on valuable experience we have gained dealing with nutrient management plans in Lambton since May 2000, we would like to highlight a few of our special recommendations and concerns with the proposed provincial legislation and the relevant regulations.

First in part I, this section is important to standardize some terminology that is currently used differently in various locations and situations.

Part II deals with regulation-making authority. It is obvious that legislative authority is necessary to make these regulations enforceable. We feel that some potential for flexibility should be built into these regulations. We are very supportive of using MDS and building code guidelines. A regulation that specifies calendar dates for the entire province would not be as suitable as one that allows consideration of geographic regions, soil conditions and type.

You will notice that I am kind of skimming through this. There is more in this presentation that you can peruse at your leisure.

We do not support licensing or fees for primary producers relating to the application of nutrients to their own land.

We feel it is critical to have these plans that you are proposing approved by a qualified unbiased third party. We would encourage OMAFRA to continue to support and expand the resources necessary to allow the OMAFRA engineers to continue in this role. We would not support privatization of this role.

Also under section 2, the implementation of effective innovative technologies in management of nutrients is strongly endorsed by our group. This would be a great example of the potential for flexibility as new technologies emerge.

Also under part II, we were encouraged to notice that the establishment of local committees to assist in promotion of the strategy and mediation of disputes was recommended. This was an important component of our Lambton nutrient management strategy. We are encouraged that this is proposed in this act.

In part III, under the appeal process: this is important and we would encourage the province to include some tribunal members who have a good knowledge of primary agriculture.

With regard to inspections and orders in part IV, these powers, including entry and inspection without warrant or court order, are considered extreme, and both producers and inspectors should be made aware of their

implications. For example, biosecurity is essential on farms and any breach could have major implications.

We feel orders for preventive measures may be necessary to manage any adverse effect, but also recognize that high short-term cost could be involved. We would encourage some cost sharing between producers and various levels of government. We feel there is huge potential for a capital grant program from the Ontario government to help producers conform to the requirements of this act. Our experience is that the additional capital costs may impact livestock producers with limited manure storage. We have concerns that this could be the main contributing factor to the demise of a substantial number of small livestock farms.

Now I'm going to turn it over to Don, who has some comments on this very issue.

Mr McGugan: Thank you, Bill. I really appreciate that my friend Mr Beaubien brought up the topic of capital grants a couple of minutes ago.

I have some facts and figures here. I'll try not to be very long. A gentleman in Lambton county called me up about six weeks ago after some of the rules and some of the facts came out. He said, "Don, I've got a problem." He told me what it was. He had talked to John Johnson, whom we really appreciate in Lambton, who has really helped us. He works out of the London office. He's an engineer for OMAFRA and he approves the plans for nutrient management. My friend talked to him. He runs between 150 and 200 animal units. For him to get up to the specs that are to be expected by whenever—whether it's one year or five years—to cover his manure storage, he's going to have to have a building 40 by 100 which, with all the specs, the cement and all the standards, was going to be \$88,000 out of his pocket. Now, if he covered that with a roof, it was another \$17,000. That comes to \$105,000. If he does not cover it, he needs more space to house this manure for the number of days being required. So he's up to \$105,000. He's a middle-aged gentleman, and as we all know, the beef business the last two years has been relatively good, but long-term it's just been a break-even.

So I really think that we need to take a long, hard look. We do ask you to consider the capital costs here. Approximately a third of the beef in Ontario is produced in major feedlots of over 300 animal units. Another third is dairy-type beef, and the other third comes from small operations: father-son, husband-wife deals. So we really encourage you to take a hard look at that.

When you get to the capital grant part of it, we would ask you not only to look at the storage part but also at the manure handling: the way to handle it, whether it's incorporation, whether it's moving it, whatever way it is; not only deal with the storage, but also how we get it moved and how we handle it efficiently. Also, as mentioned here earlier about some research, we encourage you to do that on these nutrients. These are valuable nutrients and we do not want to lose them.

Those are my comments right now on capital grants and the cost, and we look forward to some questions in a minute or two.

1110

Mr Bilton: To carry on to part V with regard to remedial work, we recognize the importance of some remedial work to be done by the ministry, but we have concerns with this part in that it states the entire cost may be borne by the producer. We feel a shared cost might be more palatable.

I think now, in the interest of saving time, I'm going to skip down to our conclusion for this presentation.

Our committee would strongly encourage that some comprehensive studies be done to determine the economic and environmental impact this legislation would have on the agricultural industry. Because the details of the regulations are so critical to the impact on the agricultural community, we strongly encourage that there be extensive consultation with all of the stakeholders in the development of the regulations. A draft of the regulations must be circulated to the public for comment.

In general, the Lambton nutrient management committee was pleased with the general thrust of the proposed legislation. The goal of our local strategy was to combine environmental responsibility with agricultural production flexibility. It appears the Nutrient Management Act, 2001, has the potential to reflect these same goals.

At the end of my presentation, you can see who sits on our nutrient management committee in Lambton county. I think we have a good cross-section of the agriculture industry.

The Chair: Thank you, sir. We have a minute and a half for questions. We'll begin with Mr Beaubien.

Mr Beaubien: Thank you, gentlemen, for your presentation this morning. Yesterday we had a turkey farmer, and I'll read what he said about licensing and education. He said, "Education and certification for nutrient application should be required by both large and small operators at the same time," yet you mentioned in your presentation that you don't really support licensing or fees for primary producers. Could you explain to me whether you're a strong advocate of the education process and the licensing or if you're totally opposed to the licensing—I'm sure you're not opposed to the education process, but on the licensing part.

Mr McGugan: That's a good point you've brought up. We had a great discussion on Monday morning about that and, no, we are not opposed to the licensing of commercial applicators. We think that's important. We also are great for education and we think education of the farmer or food producer, plus the commercial applicator, is also excellent. Yes, we are for that part of it. I don't think a farmer should have to have a licence to spread on his own farm. I don't want to take very long; I just want to impress upon you that that is our livelihood, that is our land. We are going to try and take the best possible care of that because that's my livelihood next year—I hope.

Mr Hoy: Thank you for your presentation this morning. We're aware of the security issues, moving

from farm to farm, and we know how that is uppermost in the operators' minds. Some trucks don't go to the same farm etc, so that is a consideration we'll have to keep in mind in terms of inspections, as you mentioned in your brief.

Do you have any numbers on the size of the livestock industry in Lambton, either by numbers in terms of heads of animals or the value to the county, perhaps?

Mr McGugan: Yes, I guess I could give you a couple of numbers there. We just completed an economic study last year with Dr Cummings from the University of Guelph. There's approximately 280,000 hog animals shipped out of Lambton county. Those are finishing hogs. There's also another number of wieners that leave every week that go to our friends in the States. As for the chicken industry, we have Carolynne Griffith here. I can't give you the number of producers but I can tell you there's over 13.5 million dozen eggs shipped out of Lambton county every year. I'm not sure of the total beef production. I don't know whether my friend Bill here knows the exact number of beef but it is considerable in Lambton county.

We have about \$350 million in gross sales of agricultural produce in Lambton county. It's the second-largest employer and the second-largest economy in Lambton county after Chemical Valley. So we are a dynamic force in Lambton county and my friend Marcel knows that, and also Carolynne, who represents the Sarnia riding.

The Chair: I wish to thank you, Mr Bilton and Mr McGugan. We appreciate the input to the committee.

N-VIRO SYSTEMS CANADA INC.

The Chair: Our next delegation is N-Viro Systems Canada Inc. Good morning, gentlemen. We have 15 minutes. We'll ask you to give us your names first for Hansard.

Mr Rae Wallin: Rae Wallin, president of N-Viro Systems Canada.

Mr Grant Mills: Grant Mills, vice-president of technology for N-Viro Systems Canada.

The Chair: Please proceed.

Mr Wallin: Thank you very much for the opportunity. There's a booklet in front of you. We're just going to cover the first section of that booklet, which is our speaking notes. The second section gives you detail of the product that we produce in Sarnia. The third is an overview of the technology. First of all, I'm going to cover some comments on our company and then Grant is going to take you through the technology on our product and research.

N-Viro Systems Canada is an Ontario-based private company in the biosolids management business. We are licensed for the patented N-Viro technology which was developed in the US in the 1980s at the Medical College of Ohio. N-Viro Canada has the rights to that technology for all of Canada. N-Viro Worldwide has over 50 plants

operating under this technology and Grant and I are the principals.

If you turn to the second page, our first plant in Canada started in Leamington in January 1996. We process the town of Leamington's biosolids, plus Heinz foods. Heinz foods is better than half of the volume there. We produce 6,000 to 10,000 tonnes of product per year. It's all sold through a local fertilizer distributor which does all of the application, hauling and control of the application, most of it being done by GPS. The product is approved under the Canadian Fertilizers Act as a soil amendment. So we go through all of the testing—and very rigorous testing, I might add—for that approval.

Our second plant in Sarnia, Ontario, started in April of this year. We process the city of Sarnia's biosolids. We produce 10,000 tonnes of product a year. It's all sold through two distributors in Lambton and Kent county and, again, the Canadian Fertilizers Act approval there is pending.

Grant will take us through the technology.

Mr Mills: I'd like briefly to go through the points listed there: the N-Viro soil process, typical product properties, beneficial reuse opportunities and activities, research done by Ag Canada, our marketing strategy, and close with a brief summary.

The N-Viro soil process is an advanced alkaline stabilization technology. There are two things we must do with this technology as the sludge moves through the various steps on its way to becoming a product: we must raise the temperature to between 52 degrees and 62 degrees centigrade—that is the pasteurization temperature—and the pH must be raised to slightly above 12. In the process the harmful bacteria are destroyed, and we'll show you some results just a little bit later.

The beneficial microflora or soil bacteria which we refer to as the good bugs survive the process. These are very important in the agricultural community. The odours are controlled completely. They are captured and treated in a multi-stage system. It's a multi-faceted, beneficial reuse product.

The next page is just a schematic of the process. Biosolids are delivered to the plant by truck or, in the case of our two plants, are dewatered on site. They go through a proportioning and mixing device, the sludge goes into a day tank, and the alkaline admixtures—they can be a lime kiln dust, a cement kiln dust, a fly ash, a wood ash—are combined together through a mixer—that's that horizontal barber pole which does the mixing—on into the rotary drum mechanical dryer where moisture is removed and the material is granulated. Then it goes into a curing area, and it must sit at that elevated temperature, the pasteurization temperature, for a minimum of 12 hours, and the pH for a total of 72 hours. It is then ready to use or go into storage.

1120

We've heard concerns over metals in sludges, in the presentation at Queen's Park the other day and perhaps even mentioned today. This table is very busy, but we just want to point out how well within the applicable

guidelines the product falls. At first thought, one would expect the sludge from a highly industrialized city like Sarnia would simply not meet the guidelines, but you can see, just glancing across, that it's well within all of those requirements. It's for two reasons: all the major industries in Sarnia have their own waste water treatment facilities, their sludge disposal facilities, but it also speaks to the control in virtually every municipality in Ontario, where the metals in the sludges meet the guidelines because of the very stringent sewer-use bylaw controls.

Much of the public concern over land application of biosolids—and this relates back to Walkerton—is in respect to the liquid and dewatered sludges—what are referred to as class B sludges—and their potential for health implications. We don't have microbiological guidelines in Ontario or Canada, so we often look to the US, EPA regulation 503, for guidance. It's also a requirement of our licence—it's an N-Viro International licence—that we meet those regulations.

The N-Viro soil is rated as a class A or exceptional quality sludge. If you glance at those results, over about five years of quarterly analyses, the good bugs approach that of a good soil culture and the fecal coliform we have found to be regularly less than one unit. The US EPA allows 1,000 for fecal coliform and, by contrast, class B biosolids allow two million fecal coliform. Salmonella is totally controlled and the other two, the helminth ova and the enterovirus, which are done annually, again are well within the requirements.

I'd just like to point out the differences between class A and class B. They're really quite dramatic. Class A involves some sort of advanced processing and it has to meet stringent quality criteria. Class B, on the other hand, is for the most part simply digested, it's applied to the land in liquid or dewatered form and it must meet only limited quality criteria.

N-Viro soil, which is a class A, is a soil-like product. The best description is midway between a bag fertilizer and topsoil. It will not decompose further. It is pasteurized, which means it's virtually pathogen-free. It's very low-odour. It stores easily. Simple application procedures can be spread with normal farm equipment. There is no land runoff, because it's just like the soil on which it's applied. It has multiple beneficial reuse options, which I'll mention later. There is revenue potential to the municipality, there's a high degree of public acceptance and it is economical.

On the other hand, digested sludges, which are class B, are categorized as waste. There is low stability. They will decompose further. They have very limited pathogen destruction. They tend to be odorous. They are difficult to store. Strict land application procedures must be followed. There's potential for runoff into rivers and wells. There are no beneficial reuse options, only land disposal. There is growing public concern and no revenue potential, because they are not products.

N-Viro soil has many beneficial reuse options. We have agriculture, which I'll mention separately later.

Horticulture—there's one plant in the US that turns out 400 tonnes to 600 tonnes of material which goes into the topsoil market every day. It's an excellent accelerator in the co-composting with yard wastes. We've done land reclamation. We rehabilitated two gravel pits in the Leamington area. There is landfill cover, and some have mentioned it as an option, but it's a beneficial reuse option of last resort. There are just too many other good options to pursue.

To date, virtually all of our product in Leamington and Sarnia has gone into the agricultural market as a soil amendment, because we are continually in a sold-out position in that market. It's used as an aglime substitute, as a soil amendment to reduce acidity. It is applied at the rate of two tonnes to two and a half tonnes per acre, which is about half that allowable under the guidelines. So if an acre called for one tonne of agricultural limestone, we would put down about two tonnes to two and a half tonnes of N-Viro soil, and it's beneficial for a variety of crops.

This next slide is an outline of what makes it attractive to the farming community. It's again very detailed, but a tonne of product could have a value approaching \$165. It is applied in the field at between \$20 and \$28 a tonne as the cost to the farmer. We are a little bit concerned about double-counting with this alkaline aglime equivalency, the calcium carbonate equivalency in calcium, but we were talking to some farmers the other day and one of them said that although the soil acidity is quite good, it is very deficient in calcium, and for that reason he is purchasing the material, to increase the calcium content.

Agricultural research—and this is a project undertaken by Ag Canada. It is well known that soybean cyst nematode can affect yields by up to about 50% by attacking the plant roots. Two pretty smart scientists with Ag Canada had an idea that N-Viro soil just might control the soybean cyst nematode. Some preliminary field results were so encouraging that they did more detailed laboratory tests. In these tests they took a series of pots seeded with SCN, and planted and set aside a control plot. Then they applied N-Viro soil on a simulated basis at rates of two tonnes to 25 tonnes per acre. They also wanted to check aglime itself to see if it would have any effect in controlling the problems with the soybean cyst nematode. They did cyst counts per root on the mature plants and, where N-Viro soil was applied, there was a reduction of about 96% on the cysts on the root. They did above-ground biomass analysis of the mature plants and in one case the N-Viro soil increased the yield by up to 30%. Aglime itself had no effect.

Their phase 2 tests are underway and they are going to look at the exact mechanism by which it works, the optimum rates of application and when and how often to apply. Phase 2 is being funded by several entities, including N-Viro International—us—the Soybean Growers and CanAdapt.

They also encouraged us to apply for a patent, which was applied for in 1999. Not only is it going to be

beneficial for soybeans, but they think it will help 14 other crops as well.

On marketing, as Rae mentioned, it's approved by Ag Canada under the federal Fertilizers Act. It's marketed through established farm products distributors, so it just becomes a component of its agricultural products line. The field application is done by professionals, so we know it's being done safely and to meet agronomic needs only. There is no excess applied. The charge is \$20 to \$28 per tonne applied in the field, and there's revenue potential to municipalities.

The Chair: Mr Mills, you've used up your 15 minutes. We have your brief. We thank you and Mr Wallin for coming forward and providing this information.

1130

DAWN-EUPHENIA RATEPAYERS

The Chair: I would ask our next deputation, Dawn-Euphenia Ratepayers, to come forward, please. We would ask if we could have your names for the record.

Mr Murray Sharpe: I'm Murray Sharpe. I farm in Dawn-Euphenia township and have since 1966.

Mrs Ruth Williams: I'm Ruth Williams. I'm not an expert on anything; I'm just a farmer's wife.

Mr David Williams: David Williams, just a farm boy from Dawn township.

The Chair: We have 15 minutes, if you wish to proceed.

Mrs Williams: Members of the panel, my name is Ruth Williams and I live in Dawn-Euphenia township in Lambton county. I've lived on the farm, with the exception of four years, for all my life and I happen to still like it.

For this past year, our community has been in an uproar over a proposed hog complex that is to be built just southwest of us. This corporate complex is to overlook the banks of the heritage waterway that passes through our farm. There are several family-operated hog farms in our municipality that have been an asset to our community, but the thought of up to 35,000 pigs at one time, at one location, boggled our minds.

Lambton does have a nutrient management plan in place, and I feel that the men who put it together really need to be congratulated. They put a lot of work into it and it's very good, but we do not feel it is stringent enough to protect our environment from odours, pathogens and lowered property values.

I, along with a group of interested neighbours, have researched intensive livestock operations and nutrient management plans and the inherent problems they pose. In February, the Ontario Farmer publication had an article on intensive livestock operations. The European Union farm commissioner is quoted as urging a move away from intensive farming where animals are packed in and fed mass-produced feed. There is a need for a return to farming methods that are more in tune with the environment. Great Britain is also investigating the return to less intensive farming since the mad cow crisis. In the

United States, some 16 states have enacted legislation that greatly curtails the continued expansion of intensive livestock operations. In Holland, farmers are being paid to stop farming because of environmental manure problems. And I'm not an animal activist. I still enjoy my meat too.

Because of our lax environmental rules governing manure handling, other countries' problems are being transplanted here to Ontario. Factory-style operations are springing up in numerous areas of our province. This is not agriculture as we once knew it but virtual chemical plants that produce enough sewage to equal some of our small cities. At this time, we are looked upon as a pollution haven. We, as traditional farmers, do not want to be responsible for destroying our environment.

In our immediate area, Mr Bob Kerr is now raising grass-fed cattle. Well, I've got enough white hair; I can remember when that was the only kind you got. He is using fewer antibiotics, resulting in an animal with better texture, better taste and better health, thus better for all of the consumers. This common sense type of agriculture should be maintained if our society is to be sustained in a healthy state.

At present, our 1.5% of the population—that's us farmers—is providing nutrition for this country of ours, and I think you've been getting a bargain, too. We are accused of producing 40% of the pollution in our environment. This may be so. That means that the other 98.5% produces 60% of the pollution. So when you draft this new nutrient management law, we expect that this law applies to all citizens. We are expecting a great deal from you. Please use common sense, workable solutions so that all of our society can look forward to a sustainable future.

And, yes, I did read the nutrient management plan, the whole 61 pages. My eyes were getting glazed, but I did it all.

Mr Sharpe: The other night we sat down with a local family farm operator who runs a pig operation and we came to a general consensus of the list we have below. The list that we're providing comes in no particular order as far as importance, but we feel it would help promote what we're looking for, sustainable agriculture:

One hundred and fifty livestock units per 100-acre site; a minimum of 400 days' manure storage; the owner of livestock units must own 50% of the tillable land base that is required for the application of manure; steel or concrete manure storage to be emptied at least once a year, no earthen lagoons; five-year manure spreading leases renewed each year and a copy of the lease agreement on file at the municipal office; the owner or a representative of such being on site during manure spreading operations; reasonable manure spreading times to be observed; custom manure spreaders licensed and insured, with documented proof of such; excessive traffic, dust and odour are to be taken care of by the livestock owner and manure-spreader operator;

Leasing farmers must have their own annual nutrient management plan; annual soil-testing for the buildup of

heavy metals—copper and zinc—must be completed; a reserve of 25% more land in excess of the nutrient management requirements for manure spreading; random annual inspection of facilities by a neutral agency; and maybe most controversial—but this one I picked up from United States regulations that are coming out—distance regulations, 1.5 miles' or 2.5 kilometres' distance to the nearest residence from any new livestock building site that consists of 150 livestock units per 100-acre site; groundwater monitored quarterly via test wells on the site; nutrient management plans to be registered at the township of origin; any infractions of such listed on that nutrient management plan; nutrient management plans to be placed on official map at the municipal office, along with application rates to correspond with the soil tests;

Perimeter mapping of the farm receiving nutrients needs to be completed with GPS or global positioning satellite usage for the exact acreage and rates that are applicable; topographical maps need to indicate the suitability of the ground for the various materials that are being applied; GPS maps for drainage waterways and water wells.

One we may have forgotten and were thinking about later is the possible bonding for the new buildings going up. What is going to happen in the case of large commercial operations or corporate operations when their usefulness is abandoned? Who is going to clean up the mess?

We do not feel these requests are unreasonable, and they may even have to be strengthened. We only have one environment and we all depend upon it.

Mr Williams: Any questions? I guess the pressure will be on me to answer them.

The Acting Chair (Mr Bert Johnson): There's about seven minutes and we'll divide it evenly.

Mr Hoy: I had two to begin with at least. Under your presentation number 7, "reasonable manure-spreading times are to be observed," could you elaborate on that a bit? I know you've got 400 days of storage etc, but just expand on what reasonable spreading times would be.

Mr Williams: We'll deal with this one across the road from us. If you do some of the arithmetic, there are three million gallons to be removed some time during the course of the year. The way it was explained to me, it will be done in five days. If you do the arithmetic, that's 150 times a day. That's 300 trips back and forth. We have about 15 kids in the area and what we would like is some notification, like an 11-to-7 type of thing. Use a little bit of common sense and courtesy. We're not unreasonable.

Mr Hoy: Number 13, "random annual inspection of the facilities by a neutral agency": have you got any recommendation who that might be?

1140

Mr Williams: We have a couple of certified crop advisers in the area and for the most part they know the area really well. I would think they would; and some of them have farm backgrounds too. We don't need the manure police. We already have the Roundup Ready

police. I don't believe that's necessary if you could train them to know what to look for or not to look for.

Mr Peters: What about 15 as well?

Mr Hoy: It's suggested I should ask a question about number 15: "groundwater monitored quarterly via test wells on the site." Who would do that, do you think?

Mr Williams: For the groundwater wells, I think they should be on the site of anything over 450 livestock units that is close to a major watercourse. Your minimum distance separations I believe are somewhere around 1,500 feet from the nearest dwelling, but it can be built less than 300 feet to a major watercourse. If it was on a course, you could test it maybe four times a year by this same fellow.

Mr Hoy: Same thing.

The Acting Chair: Dr Galt.

Mr Galt: Thank you for your presentation, particularly for this list of 21 thoughtful points. It's obvious you've been doing a lot of thinking about it.

The one that I don't see here, and I'd be curious about your response—and I may have missed it, but I've glanced over it—has to do with winter spreading. What are your thoughts on allowability or not, as we get into—I'll use dates just for the sake of a time period—November 15 through to, say, early April, as you get frost in the ground, or snow? There are times of the year that it's going to be frozen in Kemptonville versus here versus New Liskeard. How would you go about writing that regulation if you were in Toronto?

Mr Williams: In the part of the world where I live, which is in Dawn township, we have a couple of common practices: no-till beans and no-till wheat. There's very little tillage done to incorporate any amount of manure.

But getting back to your original question of winter spreading, I am against it. The reason is, if you look at the last couple of winters, one day it's frozen, the next day it's 60 degrees. If you have manure lying on top of that and we get an excessive amount of moisture and/or snow, where is it going to go? There is no way to incorporate it into the ground; there is no residue to put it on. I think any farmer in Lambton county or any farmer in Ontario spreading manure on snow that is that deep is foolish.

Mr Galt: No argument at all with you, but would you put a date in there?

Mr Williams: I would think you'd have to go with dates for different regions.

Mr Galt: In different parts of the country?

Mr Williams: Yes, because obviously, if you drive 150 or 200 miles to the north of here, the leaves have started to turn and the weather goes accordingly.

Mr Galt: Again, I'm sort of asking you for information, but also to point out some of the difficulties in setting up regulations, recognizing the flexibility, the difference in soil types, the different times that soils freeze etc. It's a horrendous task—a tremendous task, I should say.

Mr Williams: No, horrendous. You were right the first time. Agriculture here in Ontario is very diverse. If you could drive from one end of the province to the other, if you look at Essex versus up by Ottawa, you would see the diversifications. I believe one-size-fits-all is not the way to go, because we have different farming practices, different tillage practices, different crop rotations.

Mr Galt: Certainly, your list here is very helpful. There'll be a lot of further consultation on working out these regulations. There's been some criticism they're not here as the act comes out. You have to have an act before you have authorization for the regulations, and that is kind of the cart before the horse, but I appreciate the detail as to what people are concerned with. There are 21 points and it is just excellent.

Mr Williams: They're just thoughts and ideas, fellows. Thanks for your time.

The Acting Chair: The time has expired. I'd like to thank you on behalf of the committee for being with us today.

PAUL MISTELE

The Acting Chair: We'll move along. Next is Paul Mistele. Welcome to the committee.

Mr Paul Mistele: Thank you very much. As a bit of a preamble, I'd like to say that I also farm, the same as Mr Desmond before me. We farm on the north shore of Lake Erie, but we've only been farming in the same spot since 1853, so we're a relative newcomer to the area compared to Mr Desmond.

First, Mr Chairman, I would like to thank you and the committee for the opportunity to express my views today regarding Bill 81, the Nutrient Management Act.

Along with my wife, I am involved with broiler chickens, pork and crop production. I am by no means an expert regarding the environment, nutrients or the legislative process, but my 30-plus years as a family farm operator should count for something.

One of my primary concerns with Bill 81 is that of enforcement. Those people who will be given this power will have to be trained extensively in regard to nutrient management, biosecurity and the whole issue of dealing with people who are not used to provincial officers showing up on their doorstep with a badge in their hand. I realize you need enforcement to have compliance, but you don't need a sledgehammer to kill a fly. All of the farm families I know live on their farms, are community-based and are probably as good environmental stewards as you will find anywhere in the world.

Another concern I have is the funding issue. Livestock producers, under the anticipated regulations, will have to make significant investments to their operations to ensure compliance. Are we, as producers, to shoulder these costs on our own or is the government going to recognize the fact that the environmental benefits will be of value to all citizens? I don't see Collingwood, Toronto or Hamilton, to name but a few cities, having to resolve their environ-

mental problems in a certain time frame. Quite often, you will see funds made available to municipalities when water and/or sewage projects are deemed to be required. The same consideration should be made for farming operations, especially if adopting new technology.

Funding for research and development of new technology is also key to sustainable agriculture, be it composting liquid manure or developing better reeds and grasses for growing along streams as buffer strips. Adequate funding will help ensure compliance of regulations but, more importantly, it will also ensure that some of the best livestock producers in the world will remain in the industry. The economic impact on family farms cannot be minimized. We all know that legislation and regulation cost money. To remain competitive in our global market, farmers will definitely need government support.

Regarding the issues of municipalities, I would anticipate that the provincial regulations would supersede municipal bylaws. If a municipality, with all its local politics, is able to end-run the provincial legislation, then why are we going through this process? Will we not be right back to a patchwork of regulations across the province, the very situation the government is trying to rectify with Bill 81? With the use of local committees to review complaints while making recommendations to their peers, along with solid nutrient management plans and strategies, the need for excess municipal regulations should be nullified.

Our farm has been operating with an environmental farm plan and a nutrient management strategy for over 15 years. I use a crop consultant to assist with some of the cropping decisions. Bill 81 will formalize this process, probably more than I wish. I hope this committee will recognize science-based information and not be swayed by lifestyle issues. We live in the country to raise our family, earn a living, hopefully, and produce safe, affordable food for all Canadians. Please be wise in your recommendations.

The Acting Chair: There are about eight minutes. We'll split that evenly.

Mr Beaubien: Thank you for your presentation. A couple of quick questions: you mentioned in your presentation that the farmers will definitely need government support. In what form? Tax credits?

Mr Mistele: You've been looking for an answer to this one all morning, so I'll try and take a stab at it.

Mr Beaubien: I've got to pin somebody down.

Mr Mistele: Yes, I know. So anyway, I guess what we're going to be looking for—I like the CURB program that came in under the NDP government. I said that Elmer Buchanan had the foresight and the ability to pull off many things. The CURB program was good. It recognized a need and it did certainly focus on protecting water resources. So I'd like to see the CURB program. It could be used as a vehicle. And yes, I think we do need grants. We don't need any more loans. We already have enough loans and we don't need any more baggage like that. But I would look at grants, and it's got to be a multiple thrust. When you talk about what you're going

to do as a government for environmental protection, you even have to look at the school curriculum and take it out to that point. Put agriculture back in there where people who are getting more and more removed from agriculture on a daily basis understand the science behind agriculture. You've heard that already this morning. But, yes, I would embrace grants.

You asked at one point in time about licensing of people who are going to have to put nutrients on their own land. Yes, I think it's going to be along the pesticide course guideline. I don't agree with it, but I think society is going to demand that.

1150

Mr Beaubien: You mentioned also municipal politics doing end runs on provincial legislation. You heard the previous presenters in front of you, and they had a very intricate and detailed list of issues to deal with nutrient management on the farm. Should the provincial legislation be the foundation of the nutrient management legislation and then have, as other individuals have suggested, other municipalities be able to add on to it, or should the provincial legislation be the end-all of everything?

Mr Mistele: I'd like to defer to the Highway Traffic Act. If you own a semi or you own a pickup truck, you run under the Highway Traffic Act. But rules and regulations regarding the pickup truck or a semi truck hauling 20 tons of product are different. This is where the categorization and the classifications will come into play. I think these can be addressed through that because if you start allowing municipalities to supersede—and this is what you're talking about—under either this regulation or international law, which we've already witnessed in this country recently, then you are going to drive the industry out.

The aforementioned presenters: yes, they have a great list. Show me the money. To ask for a mile and a half of minimum distance requirement, that's very grand and maybe it'll work out west where they have a mile and a half.

Mr Peters: Thanks, Paul. I know you were instrumental in helping to develop that local committee in Elgin county and I commend you in your efforts for that. One of the issues in dealing with the local committees that I'd like your comment on is the makeup of the committee being producers and municipal politicians. We also have another component out there and that's what I would call the non-farm rural resident. Should the non-farm rural resident be part of these local committees?

Mr Mistele: I think they have to be to give the committees any credibility. When we had a moratorium in west Elgin, I was part of that committee. We had citizens participate who didn't have any linkages to agriculture and it was a learning process for both our sides. At the end of the day, we found that all our concerns were basically the same and we were just trying to see how we could put this together, to recognize an asset-based approach to the municipality, land-use issues, topography and the ability of the ground to support

different levels of nutrients. So, yes, I think just to give the process credibility you're going to have to have these people on and hopefully, at the end of the day, everybody will be working as a team.

Mr Peters: Thanks. I think Pat has a question.

Mr Hoy: Thank you very much for being here this morning. I just want to pick up on one other point you made. I took note of your government support and loans. Do you have a particular ministry that you think should be the lead in funding for research and development of new technology?

Mr Mistele: Research and development coming from the government is quite a concept in this day and age, isn't it? We seem to see it going more into private companies. I would certainly like to see OMAFRA taking a lead because they understand the situations. I'm not saying that I'm totally in favour of OMAFRA being the only ministry involved in this legislation simply because of that credibility factor. We certainly have to have a partnering of MOE and OMAFRA together to make this a workable solution for everybody, because they both have expertise in different areas.

So, yes, I'd like the research and development to come through the University of Guelph or anybody else who is willing to step up to the plate to take on the complicated issues of odour and the vectors that odours move in. I sit on the environmental committee at Ontario Pork and odour is very much at the top of our list of what we want to address. I think, when it comes right down to it, odour is very much the issue here today.

The Acting Chair: Thank you for appearing before the committee.

Mr Mistele: I was a little worried about coming in right before dinner. I didn't want to get between you guys and your trough.

The Acting Chair: For those of you on the committee, the restaurant at the front is expecting you. This committee stands adjourned until 1:15.

The committee recessed from 1155 to 1312.

MUNICIPALITY OF CHATHAM-KENT

The Chair: Good afternoon. We now reconvene the hearings of the standing committee on justice and social policy; Wednesday, September 12, consideration of Bill 81. From our agenda, we ask the municipality of Chatham-Kent to come forward. We would ask you to give us your names and then proceed. You have a 15-minute presentation.

Mr Tom Storey: Thank you, Mr Chairman. My name is Tom Storey. I'll be delivering the presentation. I'm a planning consultant with the municipality and I've been heavily involved with their development of a nutrient management strategy.

Mr Ralph Pugliese: I'm Ralph Pugliese. I'm with the municipality. I'm manager of strategic and planning services.

Mr Storey: We've provided to the committee a brief brief, if you will. Rather than go through it, I think I'd

like to turn simply to page 4, which is a summary of our recommendations and requests. I would also like to begin by giving you an overview of our position on this, and that is, we found in going through the act that we had far more questions regarding where we're going with this and how it's going to affect the municipality on a general level and that it's difficult to come to the committee with specific concerns regarding the act. I think that's reflected somewhat in our comments.

Our first point: a more clear understanding of how the Nutrient Management Act and the Planning Act interact is necessary.

We've used the Planning Act in the past, in combination with the Environmental Protection Act and the Environmental Assessment Act, to deal with complex land use matters that had environmental and land use planning issues such as this. In reading the act, there is no mention of the Planning Act, and we're still not certain how readily we can use the Planning Act as a tool, through official plan policies and zoning, to manage nutrient issues at least to the extent that they are considered land use issues. I think you would agree that to a great extent they are land use issues.

The second point sort of follows from the first point. Where unique local conditions warrant, the director should be given the discretion to permit local bylaws to remain in whole or in part which might otherwise be superseded by a provincial regulation.

I'm sure all the committee is aware that the regulations will take precedence over any local bylaws where they overlap on an issue. Our concern there is that the director doesn't seem to have any discretion, as he does in some of the other legislation, to recognize those unique local conditions. We'd like to see that perhaps built into the regs or certainly amended in the act, if possible.

As I said, we've done a great deal of research. I'm here as part of a nutrient management study committee, which was appointed by council about a year ago. We've developed a strategic plan. We're working on official plan policies, how we'll use zoning. Originally the committee was set up to also draft a nutrient management bylaw, which of course is no longer necessary. We find ourselves somewhat at a standstill. We would like to know that if we continue to do our local research—we've done a subsurface water budget. We know how many nutrients we can put on our land. We've got all those things under control. So I think we're in a position to march forward and develop some real policies, but right now we've just got a big question mark as to the impact of this act and how we could manage it.

We've included as an appendix the executive summary of our study. Some of it is perhaps germane to what you're doing and probably some of it is not. But at least it gives you an idea of the resources the municipality has committed to this topic to date. In particular, you might be interested in page ii of the appendix, the summary of our public consultation on this. It reflects very much what Mr Galt found in his work over a year ago.

The next item: a more clear understanding of the role and responsibility of a municipality in the preparation of a nutrient management strategy is necessary.

To us, that could mean we have to deal with every nutrient—the way that it's defined right now—that is managed whether in the public or private sector in our municipality, which would be an enormous undertaking to develop a strategy to do that, or it could mean, from my reading of that, that we simply are responsible for nutrients we produce or generate ourselves.

Also in that regard, municipalities should have input into nutrient management plans for nutrients generated elsewhere for which they may be the ultimate host.

Once again, the nutrient management strategy description talks about nutrients generated in the municipality, not nutrients which may end up in your municipality, applied to land in your municipality, which in fact are generated somewhere else as part of someone else's nutrient management strategy or plan. So we would like to make it clear that if we're going to be a host to someone else's nutrients for application in Chatham-Kent, we would certainly like the opportunity to review those nutrient management plans before they become approved.

Fifth—you've probably heard a great deal about this, I would suggest—there should be an opportunity for public input into the regulations before they come into force.

Quite clearly, pretty well everything of any sort of impact or weight is going to be in the regulations, not in the act, when it comes to the nitty-gritty of what nutrient management planning is all about. That being the case, we would like an opportunity, and I certainly think the public deserves an opportunity, to review those regulations and speak to either this committee or some other committee on that matter.

1320

Item 6: the Planning Act should be amended as soon as possible to permit the extension of interim control bylaws, which are temporarily regulating livestock operations, until such time as the Nutrient Management Act and regulations are in force. In reaction to OMAFRA's call to municipalities a year ago last summer to think about interim control bylaws and livestock operations, Chatham-Kent did pass one in August. It looked like most other interim control bylaws you may have seen in other municipalities have passed. We passed it with the understanding that we would be looking at legislation before the end of the year 2000. Of course, we've seen this act recently, but at the time we had to reconsider our interim control bylaw, we had no choice but to pass it again.

I don't know if you're aware or not, but under the Planning Act you get two cracks at interim control bylaws and after that you cannot put out a bylaw again. So we've got two years and we've already eaten up one year. We're not that far along in knowing where we're going to be, and we're very concerned that this act, this legislation and these regulations, may not be in place a year from now, next August. If that is the case, say come

March or April, we've got to take steps. We can't wait until next August to know if it's going to be in place. We've got to take steps to do a nutrient management bylaw, which I think you understand we don't want to do if we're expecting legislation that will do the same thing, probably better than we're going to do it.

An easy way around that may be to amend the Planning Act, at least so that this temporary situation won't exist, this gap we're looking at. So if you have an interim control bylaw in place and it deals with the regulation of livestock issues, we would be allowed to pass it again or continue the interim control bylaw until such time as the legislation and the regs are in force.

Item 7: the act should contain provisions requiring a public notification and input process and make more clear how the public may become party to Environmental Review Tribunal hearings. The only part of the act I could see that dealt with public notification, if you will, was I think the part that referred to a registry being set up where nutrient management plans would be deposited, I presume. We know from the background document that there is talk that the regulations will approach this from the point of view of large operations of over 450 livestock units, then what I'll call medium-sized operations between 150 and 450, and then the smaller ones of under 150 livestock units.

I think it's important that there be public consultation, and that level of consultation can certainly vary in size. If you have different classes of livestock operations, then you could have different levels of public input as well. We think that's very important. That was something that came out of our committee.

I should say before I go further that our committee consists of three people who represent a livestock interest, three people who represent an environmental interest and three people from the public at large, and on all these issues they have agreed. There wasn't a split on anything with regard to how we should approach this act. They are all agreed as to public input being very necessary. We don't see it in here at this point. My experience is with the Planning Act, where of course public participation is set out in considerable detail in the act as well as in the regs. We would like to see more of that in this act rather than leaving it to the regulations per se.

Item 8: the reason the discharge of nutrient materials into the air will not be considered an adverse effect needs to be addressed. We're speaking of section 28, where the director has the ability, when he thinks the discharge of nutrients may have an adverse effect on the environment, to make an order to stop an activity, let's call it. However, that section says the discharge of nutrients into the environment "other than the air," which struck us as almost rendering that part of the act useless because most nutrients are released into the air before they accumulate anywhere else. So we'd like some explanation as to why the discharge of nutrient materials into the air is not considered an adverse effect.

Certainly in the preamble to the act, the explanatory notes, it talks about that very subject and says something to the effect that the Supreme Court has ruled that for an effect to be considered an adverse effect it must not be a minimal or trivial effect, it must be significant. I guess our thinking is that if that's the case and you're discharging a nutrient into the air, if it's an adverse effect that means it's having a significant impact on the environment. Why in the world would the director not have the ability to do something about that?

Also, in section 17, where it deals with similar powers for the director, and that's to prohibit entry into property where he thinks the discharge of nutrients into the environment will have an adverse effect, the prohibition on air is not included. So we've got two sections, one where the director cannot act where it's discharged into the air and another section where he can act if it's discharged into the air. Plus, it's not clear whether "adverse effects" applies to just section 17 or sections 17 and 28. I think those are important considerations when you're dealing with impacts on the environment.

Number 9: the reason why loss of enjoyment of normal use of property should not be an adverse effect, as it is in the Environmental Protection Act, needs to be explained. In section 17, where it talks about what an adverse effect is, it has lifted the definition straight out of the Environmental Protection Act, with one notable exception, and that is where an adverse effect is considered the loss of enjoyment of normal use of property in the Environmental Protection Act. That is not considered an adverse effect in this act. I think we would like to know why that is.

Lastly, a program for financial assistance to livestock operations forced by the regulations to retroactively upgrade facilities should be considered. In that case, we were thinking of the tile loan acts program, or something to that effect, where a terrific financial burden would have to be endured by a farming operation to bring an operation facility up to the standard of the regulations.

The Chair: Thank you, Mr Storey and Mr Pugliese. You've hit 15 minutes right on the button. We thank you for your presentation on behalf of Chatham-Kent.

COUNTY OF MIDDLESEX

The Chair: I'd like to call forward the next delegation, the county of Middlesex. Good afternoon. We'll ask you if you could give us your names for the Hansard recording, and then we have 15 minutes. Please proceed.

Mr Al Edmondson: My name is Al Edmondson. I'm the warden of the county of Middlesex. With me is our CAO, Bill Rayburn. There's a copy going around that you could follow.

Mr Peters: You've got all three of your MPPs here.

Mr Bill Rayburn: It's like old home week, actually.

Mr Edmondson: We're blessed.

The Chair: Let's see if we can give them some time for questions.

Mr Rayburn: We even have one of our unofficial MPPs here, too, right Bob?

Mr Bob Wood (London West): I'm from Middlesex, but not the municipality of Elgin-Middlesex-London.

Mr Edmondson: A former resident.

1330

Mr Rayburn: Thank you, Mr Chairman and members of the committee, for this opportunity to present to you today. For Middlesex county, nutrient management has been an ongoing issue for a couple of years. In the last couple of months we put together a discussion paper which addressed many of the issues that you're going to be discussing over the next little while. In preparation for our discussion today, we distributed this discussion paper to other counties and other local municipalities for their comments. So the paper I have attached to the back of our presentation notes today is our discussion paper. It has been revised several times. The latest revision was done after the AMO conference, when we met with all our local municipal counterparts and our county colleagues and received their input into what issues were important to them in the Nutrient Management Act. As a result, we think we have a pretty good paper that focuses on the issues that are important to the municipalities of southwestern Ontario and our county colleagues.

I'll just highlight for you the municipal experience in Middlesex county. It certainly has become the number one health issue. Water and nutrient management has become the number one health issue in our county over the last couple of years. We believe, as you do, that regulations that provide an appropriate level of treatment for nutrient management are long overdue. The implementation of a Nutrient Management Act must be timely and decisive.

One of the key issues that we've been dealing with at the county of Middlesex and trying to get consensus on, and it hasn't been easy, as many of you know, is who should be the enforcer of the regulations. We have come to a consensus at the county of Middlesex on three things. The first one is that there should be a single set of rules for nutrient management that is established at the provincial level. We also believe that these consistent rules should be enforced consistently across the province. That's another area of consensus.

To accomplish this goal, county councils looked at two alternatives, the first one being local enforcement. If it is to be locally enforced, they believe that it should be provincially funded and they believe that it should be consistently educated. The reason that many of our councillors look toward local enforcement is because they feel that local municipalities would be able to provide a more timely response than can be provided by provincial ministries. They also think that municipalities would have a longer-term focus, as opposed to a short-term solution and enforcement regulations that would be short-term in focus. They believe that municipalities through best practices would be able to develop lasting solutions that would serve municipalities well over the long term.

In regard to provincial enforcement, many of our county councillors believe that provincial enforcement is the way to go because, quite frankly, they believe that it would be less likely if it was provincially enforced for the costs of enforcement to be transferred to municipalities, and that is their main concern. They believe that it should be provincially funded, that there should be consistent education that would be easier to do at the provincial level, and that there should be consistent skill levels of those enforcing the regulations. There would also be consistent implementation of penalties across jurisdictions, which we feel is vitally important so that one area does not have a diluting of the Nutrient Management Act in comparison to other jurisdictions.

There's also the opportunity for non-labour-intensive alternatives for enforcement to be explored, such as are being utilized in Oxford county, if it's done on a larger basis than strictly one municipality.

So that's the issue of local versus provincial enforcement and where our council sits on it at the moment. I'm just going to ask Al to talk about some of the other issues, such as the role of technology.

Mr Edmondson: We'll skip the next box; it's self-explanatory concerning family farms and the concerns about family versus larger farms.

In the world of technology, we look at this and we strongly believe that enforcement is not the total answer. We have to look beyond that. In that regard, we have to look to new technologies and what there is available today. Right here in the town of Chatham, we have agriculture research ongoing at Ridgetown College. We visited there several times. They have a very successful composting system that I think, with a bit of investment on the part of the provincial government, could possibly be part of the answer. It is not the total answer; we're not saying that. But I think we have to very, very carefully look at new technologies.

These technologies reduce the bacteria. Therefore, through the composting process, they get rid of the E coli. Therefore, they are safe and it makes the public know that they are safe. We're not putting elements on the land that are going to contaminate the water source, which is the ultimate goal here.

The provincial budget must provide incentives for the continued development and implementation of these technologies. If this is going to be a societal problem, which it is, if clean water is the goal, then society as a whole should help pay for that.

The enforcement of regulations: the regulations must be transparent and easily enforceable. Middlesex county is proposing a revised enforcement system. We've looked at the regulations as they are presented to us. Very carefully we've discussed them with many different groups, as Bill has suggested, and we've come up with the following:

The peer review seems to be very successful in Oxford. They have not had to go beyond that. If they did have to go beyond that, they're not too sure where they would go. A nutrient management officer, as described in

the paper presented by the government, is well educated, as was pointed out earlier, should be well educated, and he presents his report. The way it is set up at the present time, we have the officer in the field, we have the director, we have a tribunal and on down through the appeal to the ministry and the courts. It is our feeling that this is a system where one undermines the other. If any of you were the officer in the field and then your decision is appealed to the director, and then the director's decision is appealed to the tribunal, every one of those undermines the person above. Our opinion is that we should go directly from the officer in the field. If that isn't agreed upon, then it would go to the courts so that we take out this bureaucracy. That's explained at the very top of the next page. This puts the onus on the violator.

Under the Provincial Offences Act, which we'd also like to see, there are two sections, part I and part III, in which this could be used effectively. We understand that over 70% of the fines that are given, say, in the Highway Traffic Act, under the Provincial Offences Act, are paid out of court. Therefore, if there was a system under part I of levying fines under that act, it would be much more expedient if the onus would be on the individual to pay that fine out of court, or it's his choice to go to court. It takes the onus away from the taxpayer and the government in terms of enforcement. If it's a more serious offence under part III, the size of the fine can obviously be much higher.

We would also encourage, in the last point there, the development of awareness through the peer advisory group. We still think that is a very important part of this. If you don't have to go through any of those processes because of the peer advisory group, then that's the most economical and, I guess, socially the most suitable way to go, because you've got your peers looking after the issue.

In summary, Bill, would you have anything?

Mr Rayburn: Go ahead.

Mr Edmondson: Groundwater quality is a provincial responsibility. The province should fund the solutions. We must look beyond the obvious, the obvious being regulations, to establish long-term solutions. The long-term solutions I think will come through new technologies. Our juggernaut of economic progress has hit a pothole with the advent of the Walkerton situation. We are faced with two choices: we can repair the juggernaut and make it workable or we can redesign it so that it will give us something for the future and protect our waters for future generations.

Bill and I would entertain any questions that you have.

The Chair: We have about two minutes for each party for questions. We'll begin with the Liberal Party.

Mr Hoy: I would like to ask one question: do you have any definition that defines the differences between a family farm and a factory farm?

Mr Edmondson: I think that would become an issue in itself in a sense. What is the dividing line? In our paper we talk about the industrial farm.

Mr Rayburn: Mr Beaubien is doing a review of tax classes and we're submitting a paper on whether or not there should be an alternative tax class for intensive livestock operations and what definition would be used there. We haven't asked council that question, what their definition is. It's more of a feel right now, but as we do that tax class work, we're going to be asking them to define it better. We'd be glad to share that with you whenever the time comes.

Mr Hoy: It would be helpful. I can recall 30 years ago being asked to define "farmer" and nobody could do it, let alone these other entities that you're talking about.

1340

Mr Rayburn: Even "intensive livestock" means different things to many of our councillors. "Factory farms" is the terminology that we've started using and we'll more clearly define that when we do our tax class work.

Mr Beaubien: Gentlemen, thank you for your presentation this afternoon. I'd like to pursue what Mr Hoy has touched upon. If you were in the audience with the previous presenters, it's too bad we didn't have time for a question, because they sort of tied the nutrient management to the Planning Act, the land use, and I think you referred to the assessment. That's a somewhat innovative way of looking at it. I think that's the first municipality that somewhat tied the two issues together, and I think there's merit to looking at it in this manner.

Having said that, in your presentation you seem to be more concerned with the enforcement, where the responsibility should lie. As a municipal leader and a municipal administrator, how do you feel about looking at the land use and somewhat tying it to the nutrient management? Have you looked at it from a municipal point of view? Have you discussed that, sir?

Mr Rayburn: The planning aspect of how nutrient management fits in has been vitally important. From an administrative point of view, we've done a lot of work in that area. From a political point of view, from the politicians' point of view, they've been concentrating more on, "Who's going to pay for the cost of the act that you're about to implement?" and whether there are better ways of making sure that there is compliance as opposed to spending more money. So that's where their concentration's been.

Our concentration administratively has been on what are the true costs of some of these factory farms and how can we recover some of those costs, so that the costs of factory farms and the impact they're having on the community aren't borne by all residents; they're borne by the people who profit from the activity. So that's what our next paper to your committee is going to be on in terms of tax class. We think that we can compute for you what those actual costs are of some of the factory farms: what the costs are to municipalities to do the planning enforcement, the water quality enforcement, all those things that you're talking about. There are costs to them and, administratively, we know what those are. We're not to the point yet where we can define it, but we will be able to by the time your committee has done its work.

The Chair: Mr Rayburn, Mr Edmondson, we thank you for the input to our committee.

We have had a scheduled deputation cancelled.

Mr Peters: The Upper Thames has cancelled as well.

ONTARIO FRUIT AND VEGETABLE GROWERS' ASSOCIATION

The Chair: The next and final order on the agenda is the Ontario Fruit and Vegetable Growers' Association. Their representatives could come forward.

Mr Bill McCutcheon: Gentlemen, thank you for the opportunity to address you.

The Chair: Good afternoon. We'll ask you to give us your names for the Hansard recording.

Mr McCutcheon: My name's Bill McCutcheon. I'm here representing the Ontario fruit and vegetable growers and their over 7,500 members. We've been able to have the current president of the OFVGA accompany me today. This is Mark Srokosz.

Mr Mark Srokosz: I guess you've said it all, pretty well, Bill. You can keep going, I think.

Mr McCutcheon: Gentlemen, it's my intention to convey the concerns and suggestions of the OFVGA with regard to the proposed act. We are in support of the OFEC—Ontario Farm Environmental Coalition—position. But in addition to that, we feel that the requirements needing to be met by agriculture must be compensated for. This is because of the negative impact on income and the additional effort required to implement the standards. For a large part, compliance will reduce income because of standards of setback, access to water and limits to nutrient application. Additional capital input will be required to adapt to new requirements without a provision for compensation.

The next point I would stress is that, when regulations are established, consultation with the industry is necessary so that the legislation is of benefit to society and not damaging to individuals required to comply. Co-operation in this effort is essential so that both agriculture and the government improve the condition of the environment in the province.

Flexibility and adaptability are essential in any regulations so that compliance becomes the goal of all and not something to be coped with by farmers.

I would also stress, with regard to entry by those allowed to inspect properties, that biosecurity on all farms must be respected. Entrance without permission or knowledge would permit the transfer of disease in all types of crops, not just livestock, so great caution must be used.

It is also my hope that criteria established must be adhered to by all of society, not just agriculture, and offshore or imported foodstuffs will be under the same scrutiny so as not to disadvantage Ontario producers.

Thank you for this opportunity to present our position. There are a few points from our position paper in front of you that Mark would like to address.

Mr Srokosz: Short of going through this whole position paper, which is quite long, I think a lot of what we have in here mirrors the Ontario Farm Environmental Coalition's position as well. I don't know whether you've heard from them yet or not, but we won't go into all the detail here.

The main area of concern I have is in terms of research and the phase-in period when it comes to horticulture. A lot of the information and research we have on nutrients and recommendations for the different soil types that we grow horticultural crops in are quite dated, back to the 1950s and 1960s. Until we have appropriate time to resource research funds and do the research to get the right kinds of numbers needed to put standards in place for our industry, I think we need that time for the phase-in period for that.

If we're going to take it out of the regular research budget, that takes away from other research that could be done as well. Is there the opportunity to have some extra research money infused into the system to try to accommodate these needs as well?

Short of that, Bill, I think we'll just leave it to questions, then.

The Chair: We have a little over four minutes for each party for questions. I'll begin with the Liberals.

Mr Hoy: Thank you for being here this afternoon. We've heard from livestock producers about bio-considerations on their farms. Could you describe for me an example of where you would be at risk with persons coming on your farm unknown and how that would apply in your industry?

Mr McCutcheon: Currently, the horticulture industry is going through a problem with the plum pox virus. As we all know, a virus tends to be transmitted; possibly in this case it can't be without contact from tree to tree. But a person entering Mark's farm and then going to mine could carry almost anything. I grow asparagus. It's a 20-year crop. If I'm infected with anything, then a 20-year income is in danger. It's much the same with apple orchards or peach orchards or any of the crops, for that matter, that are not annuals.

Mr Hoy: But you freely admit, on the other hand, that inspection is fine. Are you looking for some kind of protocol that would allow that to happen without notification or something?

Mr McCutcheon: Yes, we're concerned with the biosecurity, not with the inspection. We have no problem with that. So if proper protocol is attempted, then it's fine.

Mr Hoy: How does your organization feel about the cost to your growers of compliance with any regulations that might come along?

Mr Srokosz: Definitely, we feel that the costs shouldn't be too onerous, that it puts us at a disadvantage. I think Bill mentioned too that if we're under this kind of scrutiny here, what about the products that are imported into the country? We only grow something like 30% of the fresh fruits and vegetables we consume. We import another 70%. We have other concerns in

terms of minor use and some of the pest control products we have available to us. Is this going to put us at further disadvantage to our competitors who are bringing product into the country?

Mr Hoy: Many of your producers would have their name on the product.

Mr McCutcheon: All of our producers would have their name on the product.

Mr Hoy: At the retail level.

Mr McCutcheon: Yes. They're all traceable back to us.

Mr Hoy: So it could be very damaging to a farm or even an industry.

Mr McCutcheon: Yes.

Mr Hoy: Thank you.

The Chair: I'll go to the PCs.

1350

Mr Beaubien: Gentlemen, thank you very much for your presentation. In talking about compliance—and you mentioned, Bill, in your presentation with regard to funding and help with regard to maybe implementing this particular piece of legislation—what would you expect from the government? Would you expect a tax credit? Would you expect grants? What type of funding formula are you looking for?

Mr McCutcheon: As far as a formula, we feel that an impact study should be brought in to find out how much damage would be done by us having to meet different criteria than our offshore friends or the Americans shipping in here, the Mexicans, whoever. If because of that we are put at a disadvantage—and we're already at a disadvantage with regard to subsidies and so on—we feel that it could be very detrimental to the industry if some type of formula is not developed. Now, we have nothing set in stone as far as a position on that. Any expense that is brought about that our farmers and farmers in general have to put out that would not bring in additional revenue is considerably damaging to them. So that amount of compensation would be necessary.

Beyond that, in the case of setbacks and so on, some of the proposed regulations that I've heard from OMAFRA, we could be talking reduced acreage, maybe in the neighbourhood of 5% to 10% less acreage that we could farm because of proximity to other houses, rivers, streams, whatever. So the damage done to us would not be known unless an impact study was done.

Mr Beaubien: Have I got time for a quick one?

The Chair: Certainly.

Mr Beaubien: With regard to the legislation itself, we've heard from different groups that some of them want the legislation to be mandated at the provincial level; others want it to be used as somewhat of a foundation whereby municipalities could add more legislation or more restrictions on to the legislation. Have you discussed that, as to what you would prefer as an organization?

Mr McCutcheon: Yes. We feel that it must be a provincial standard so that the same criteria can be used across the province. If it is not a provincial standard,

we'll have areas that would have all hog barns in them or areas that would all be predominant to something that was of lesser restriction.

Mr Srokosz: I think the whole point of going with this legislation in this route was that every municipality was setting different standards with the way it was set up before, and the idea was to put some kind of a standard across the province so that wouldn't happen. I guess if you allow them to add even higher standards to what's there provincially, you get right back in the same mess that you were in before.

Mr Beaubien: Thank you very much.

Mr McCutcheon: There is one comment that I would like to make, and this is with regard to the previous presenter. From the standpoint of the OFVGA, farming is farming no matter what the size is. The differentiation

between what's so-called intensive and normal farming—from my standpoint it's all a commercial business.

The Chair: Thank you for that. We appreciate that presentation on behalf of the fruit and vegetable growers.

The Upper Thames River are not present, as I understand.

This concludes the hearings in Chatham. Just for the committee, those who are riding on the bus, the bus is leaving at 2:15. Hearings commence tomorrow morning at 9 in Clinton. Hearings are held at the White Carnation Banquet Hall.

Mr Bert Johnson (Perth-Middlesex): That's in Holmesville.

The Chair: Is everybody clear on where to go tomorrow at 9 am? OK.

I declare today's proceedings closed and adjourned.

The committee adjourned at 1355.

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Thursday 13 September 2001

Journal des débats (Hansard)

Jeudi 13 septembre 2001

**Standing committee on
justice and social policy**

Nutrient Management Act, 2001

**Comité permanent de la
justice et des affaires sociales**

**Loi de 2001 sur la gestion
des éléments nutritifs**

Chair: Toby Barrett
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY

Thursday 13 September 2001

The committee met at 0904 in the White Carnation Banquet Hall, Clinton, Ontario.

NUTRIENT MANAGEMENT ACT, 2001

LOI DE 2001 SUR LA GESTION
DES ÉLÉMENTS NUTRITIFS

Consideration of Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts / Projet de loi 81, Loi prévoyant des normes à l'égard de la gestion des matières contenant des éléments nutritifs utilisées sur les biens-fonds, prévoyant la prise de règlements à l'égard des animaux d'élevage et des biens-fonds sur lesquels des éléments nutritifs sont épanchés et apportant des modifications connexes à d'autres lois.

The Chair (Mr Toby Barrett): Good morning, everyone. Welcome to this regular meeting of the standing committee on justice and social policy for today, Thursday, September 13, in the White Carnation Banquet Hall in Holmesville. We're just west of Clinton.

Our agenda for the course of the day is Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts.

Before we begin, I imagine there's not a person in the room who has not been following the horrific events in the United States over the last few days, and I think it goes without saying that our thoughts and our deepest sympathies are with the victims of what has happened in the United States and their families.

PROTECT

The Chair: We have an agenda. As our first order of business we would call forward a delegation from PROTECT. We would ask you to come forward to the witness table and identify yourself for the purpose of the Hansard recording. We have 15 minutes. You may wish to shorten that up to allow a few minutes for members of all three parties to make comments or ask questions.

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Jeudi 13 septembre 2001

Mr Dave Cooper: Good morning, Mr Chairman and members of the standing committee. My name is Dave Cooper. I'm a resident of Southgate in Grey county, as well as Amberley Beach in Huron county, and a member of PROTECT.

PROTECT is a mixture of farmers, cottagers, business people and residents. They have been active since 1997 in bringing attention to the potential environmental, social and economic risks that the growth of larger intensive livestock operations pose to our community.

In 2000, PROTECT and several other similar organizations formed a coalition called ALERT and aligned themselves with the Sierra Club of Canada. ALERT and the eastern Canada chapter of the Sierra Club of Canada were granted status at the Walkerton inquiry and presented a comprehensive report, A Proposed Framework for Managing the Impact of Agriculture on Groundwater, and I've given a copy of that to the Chairman. PROTECT would strongly urge this standing committee to familiarize itself with the report and apply the learning.

The following are some specific recommendations by PROTECT on the proposed Bill 81 and its implementation:

(1) Environmental risk assessment: the ALERT/Sierra research indicates that the traditional tools used by agriculture, including nutrient management plans, are not designed to, nor do they adequately address, the environmental safety of an operation. A key recommendation is the requirement for a site-specific hydrogeological investigation before permitting the storage and spreading of large amounts of manure. The report also proposes aquifer vulnerability mapping by the province and thorough ongoing monitoring of surface and groundwater resources by operators and local and provincial regulatory authorities.

Mr Harold Elston of the Ontario Farm Environmental Coalition and others seem to agree that nutrient management plans focus on the take-up of nutrients, and there is a need for more emphasis on the management of pathogens affecting our water. Perhaps the title of the new act should be expanded to the Nutrient and Associated Pathogens Management Act to reflect the scope of the new framework required.

(2) Municipal authority, and I'm referencing Bill 81, section 60: we support the concept of a strong province-wide set of regulations that provide a common environmental protection framework. However, we feel strongly

that local municipalities must be given the authority to augment the legislation with local bylaws that recognize local needs and/or provide further environmental protection. Any such bylaws must not decrease the environmental protection provided by the province, and municipalities should be responsible for enforcing their additional provisions.

Our brief outlines why we believe the recent Supreme Court decision—Hudson, Quebec—while dealing with the different issue of spraying, provides support to this principle.

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The provincial regulations should set the bar high in terms of environmental responsibility. Because water flows from one area to another, there is a need for a common set of rules to provide protection. However, will a one-size-fits-all set of provincial regulations be strong enough or comprehensive enough to meet the diverse needs of different communities? For example, in Huron county, which has a large lakefront community, tourism is a key industry, and an explosion of intensive livestock operations may have different needs than areas that are largely agricultural in nature. In trying to meet diverse needs, the new provincial regulations might become unnecessarily complex. The situation is easily met by supporting the authority of local municipalities to further strengthen the local rules to protect their unique environmental and community needs. Hopefully, the provincial regulations will be strong enough and the need for local bylaw additions will be an exception, but the right to make such bylaws should be retained.

(3) Environmental Protection Act farming exemptions: the possible exemptions of farming operations under the EPA should be scrutinized carefully. We are told the only impact is to eliminate the need for farmers to get a certificate of approval to spread manure on their land. However, most of the incidents are discovered and reported by neighbours and other community members rather than the person responsible for the operation. This indicates a need to strengthen the due diligence and reporting responsibilities by farm operations.

The term “normal farm practices” should be abandoned. Adopt a term such as “environmentally responsible farm practices” that better aligns with the direction of the proposed Bill 81 legislation.

The continued inclusion of large intensive livestock operations as “farms” needs to be examined. These larger operations, which store and spread several hundred thousand gallons of liquid manure each year, don’t require a certificate of approval while other lesser operations do. One example is large septic systems receiving human solid waste equal to about five livestock units. Another is septage spreading, which is dwarfed by the size of agricultural operations and for which treatment is now being recommended under the new legislation.

(4) Enforcement: while Bill 81 allows for enforcement by the MOE or OMAFRA, we believe the MOE should be responsible for enforcement. OMAFRA’s primary mission of supporting and encouraging agricultural

growth could conflict with environmental protection needs. The MOE’s primary mission and skills are environmental protection. The regulations should be drafted with significant MOE input and compliance enforcement should be left solely with the MOE. However, OMAFRA should be required to complement and support the MOE by being held more accountable for environmental protection as part of its mission statement, programs and measured objectives.

(5) Funding, resources and training: unless there is a very large and upfront infusion of funding, resources and training, the new regulations will not have the desired impact. Rather than a gradual ramp-up, there will be a need for a larger amount of resources through the early years to accomplish the change. This is of particular concern given the cumulative effect of recent cutbacks to the MOE and OMAFRA, which will be primarily involved.

Resources will be needed for increased staff to approve and strengthen a massive increase in nutrient management plans, conduct compliance audits and enforcement, measure success and provide capital for facility improvements such as municipal treatment and small farmers’ manure and livestock containment. It would be better to fast-track the change rather than dragging it out for years and risk losing momentum or the political will to continue.

Any new farm-support funding programs related to the implementation of the act should be linked to verifying continued compliance with the new Nutrient Management Act and regulations.

Taxpayer-funded support should be oriented toward smaller farm operations and not larger factory farm operations. These larger operations should have the economies of scale to be able to manage costs of compliance.

(6) Performance measures: success measures should focus on the end result and not just the tools and steps to get there. While both are needed, measuring pollution levels in groundwater, streams and lakes gives a better indication of the end result being achieved than counting how many farmers completed a nutrient management plan. End measures also indicate whether the tools and steps are working or not and where and what type of further corrective action might be required. They also provide a more meaningful method of communicating results to the general public.

(7) Swift resolution—who is accountable: ensure there is a means for swift, fair, effective and efficient resolution. In a recent example in Huron county, after more than two years since the spill incident and considerable cost to the taxpayer, charges brought to court by the MOE have still not been resolved.

Owners should be assigned some overall accountability for environmental infractions even when sub-contractors are involved in a farming operation. Unless some ultimate responsibility for environmental stewardship is centred on the owner, there will be too many opportunities to abdicate or contract away responsibility, point the finger elsewhere or deny rapid resolution.

(8) The transition: how is the transition going to be handled, given that the new legislation will be gradually implemented and replace municipal bylaws? This issue must be clearly sorted out to avoid public confusion, extra work for municipal officials who are already stretched, and ensure continuity of current environmental protection.

(9) Regulation input: it has been indicated that stakeholders should be involved in this process. How will you ensure that community groups such as PROTECT have adequate input in drafting the regulations?

In conclusion, Bill 81 and the discussions arising from the Walkerton hearings reflect the serious deficiency in current legislation, regulations and enforcement in Ontario to provide adequate environmental protection. We encourage the province to rapidly implement a moratorium on the further expansion or construction of liquid manure livestock facilities for several months until the new regulations are in place.

The Chair: Thank you, Mr Cooper. Your timing was right on. We do not have time for any questions.

Mr Steve Peters (Elgin-Middlesex-London): On a point of order, Mr Chairman: Will we be provided with a copy of what was presented to you, what they used for the Walkerton inquiry?

Mr Cooper: You're talking about the Sierra—

Mr Peters: A Proposed Framework for Managing the Impact of Agriculture on Groundwater.

The Chair: This one here? Is this the Sierra Club document?

Mr Cooper: That's the Sierra Club report. I made one copy.

Mr Peters: I meant through the Chair, through the committee.

The Chair: Yes, this Sierra Club report can be made available. I'll return it to the clerk.

Thank you, Mr Cooper. I would now call forward the next delegation.

Mr Cooper: There are no questions?

The Chair: You've used up your time, sir.

Mr Cooper: I used 12 minutes, sir.

The Chair: We have 25 delegations today. We have to keep on time.

HURON COUNTY FEDERATION OF AGRICULTURE

The Chair: I now call forward the Huron County Federation of Agriculture, our next delegation. Gentlemen, we would ask you to give us your names for the purpose of recording on Hansard. We have 15 minutes.

Mr Charles Regele: Good morning, Mr Chair and committee. My name is Charles Regele. I'm the Huron federation of agriculture president. I have with me Evert Ridder to help answer any questions following our presentation. Evert is a member of the Huron County Surface Water Quality Coalition as well as a regional director on our board.

The Huron County Federation of Agriculture, working on behalf of its 2,200 farm family members, appreciates the opportunity to comment on the proposed Nutrient Management Act. We feel it is important for the committee members to realize the scope of the agricultural industry present in Huron county. Huron has the largest annual farm gate sales relative to other counties in Ontario. In fact, the half-billion-dollar sales in farm gate sales rank Huron county seventh in comparison to provinces, placing it behind BC and ahead of the four Maritime provinces. So it is fair to say that when we discuss Huron county, we have to realize that agricultural production is the backbone of our community and our economy. The county federation has been actively involved with municipal councils, county council and commodity organizations to address the issues surrounding nutrient management and associated bylaws. As well, we were the catalyst for the formation of the Huron Farm Environmental Coalition and have active members on the Huron County Surface Water Quality Coalition.

The Huron County Federation of Agriculture supports the establishment of legislation that will regulate the use of nutrients on agricultural lands through the enforcement of nutrient management plans. We fully support the intention of the legislation that there be consistent regulations and standards throughout the province, based on the capability of the land to carry the nutrient load in an environmentally sustainable manner. It is our feeling that ownership of land or business structure of an operation has no bearing on sound scientific nutrient management principles. The patchwork of bylaws that presently exists does nothing to clarify the responsible use of nutrients. The development and enforcement of an individual nutrient management plan will take into consideration the site-specific parameters of utilizing the nutrients produced.

We see the gradual phase-in for compliance according to category of operation as an appropriate method. We have always maintained that all farmers need to be responsible for the nutrient application that they produce or use in their farm operations.

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We feel the general legislative blueprint as presented is satisfactory. However, we need to emphasize that the resulting regulations will tell the tale as to how this legislation will affect our individual operations on a daily basis. Having said this, we cannot emphasize enough that it is vital that debate takes place on these regulations/standards and that farmers and their organizations be consulted in their development.

We need to ensure that the categories and their corresponding standards are appropriate for the size of operations. The standards and regulations cannot be such a burden as to eliminate a segment of farms currently operating. For example, if we make standards for storage of nutrients that I cannot meet presently in my dairy operation, and it requires an outlay of cash to comply, I will have a few options to think about. I could spend the money to comply, but may think of expanding my

operation to cover the extra overhead costs; or I could just decide to leave the dairy business, perhaps even sell my farm. Again, this proves the point for full participation by farmers in the development of the regulations. It also brings up the issue of the costs associated with compliance. It is our belief that if complying with a regulation adds to our operating costs and has no benefit to our financial bottom line, then financial assistance should be made available. If the regulations are for the protection of the environment, which is the common good, all of society needs to assist in covering the expenses.

The Huron County Federation of Agriculture certainly has a concern that there is no ministry named as the lead agency for this legislation. We support OMAFRA to be the lead ministry and would like this to be seen within the legislation itself. Handing the responsibility off to another agency, especially one outside of the government, we feel would be a mistake. The cost of compliance and enforcement needs to be borne by the provincial government as the benefit is to all of society. A corresponding increase in OMAFRA's budget to ensure that they have the resources to fulfill these duties needs to be addressed.

Huron county currently has a peer review committee established to investigate concerns regarding nutrient management. We would like to see the legislation provide for this as a requirement and not as an option. We feel such peer groups could easily be used to provide assistance to enforcement of the regulations, as they know what local conditions and management practices are used and are in a good position to develop solutions to ensuring compliance.

Any enforcement of the regulations will require inspections by individuals. It is so important that biosecurity protocols be referenced within the legislation and regulations. As farmers, our livelihood is directly related to our ability to produce a safe food product. This ability must be upheld in the context of enforcement and inspection authority which this legislation lays out.

It has been the policy of the Huron County Federation of Agriculture that repeat offenders of current environmental protection legislation be subject to escalating fines. This policy also applies to this legislation. Having said this, we need to ensure that the appropriate processes of appeal contained in the legislation also be upheld. Farmers should not be held liable for any inspection or audit costs to ensure compliance. As we have stated earlier, all of society needs to share in the costs of ensuring compliance.

In closing, the Huron County Federation of Agriculture supports the need for legislation that will support sound agricultural practices and that will provide protection of our environment. With proper regulations, all sectors of society should be able to live and work together. Farmers in Huron county are a vital part of our community. We live and work here, we have a vested interest in protecting the environment for ourselves and future generations.

We thank the members of this committee for the opportunity to participate in the consultation. The legisla-

tion and its resulting regulations need to ensure that the largest industry in Huron county, and the second largest industry in Ontario, remains strong and competitive.

The Chair: Thank you, Mr Regele. We have about a minute for each party for any comment or question. We begin with the Liberal Party.

Mr Peters: I guess I'll use part of my minute to urge any future delegations to take a short amount of time and allow more questions, because from my perspective and I think a lot of people's, the questions are the best part.

Peer review committees: what is your opinion? Many times peer review committees are made up of producers and politicians. But there's another factor out there and that's the non-farm rural resident. What's your opinion on the makeup of the peer review committees and the importance of having non-farm rural as representatives on those committees?

Mr Evert Ridder: I would like to answer the question. Our peer review committee is made up of farmers who work voluntarily. There is no liability coverage for those farmers. They try to help; it's set up on a temporary basis. In our view, this committee should be made up of farmers who know what is going on in agriculture. They quite often can help to resolve problems before they get out of hand. If the farmer comes to another farmers and says, "Can't you do it this way?" it might work a lot better than when a person who is not related to agriculture comes and says, "You've got to do it this way."

Ms Marilyn Churley (Toronto-Danforth): Thank you very much for your presentation. Just following up on that, one of my concerns—and we've heard both sides—is around the legislation being able to supersede any municipal bylaw, and you made your position very clear on that. But of course, there are others who feel really strongly that the local municipality should have a say in the development of land in its own jurisdiction. Should the government go ahead and not allow municipal bylaws to have any say in the size of farms or any of the questions before us today? How would you see the non-farm community being involved in some way? Otherwise, you're just going to have a provincial government from on high, which doesn't necessarily understand the community as well as the local municipality and the people who live there. How would you see the involvement of the local municipality and the residents?

Mr Regele: When I was over at Kirkton, I understood that there was a section there that did give a little bit of leeway, very little leeway, however. The farmers in our board feel the position of that should be that they have no different legislation compared to their competitive neighbours. That should be across the province. It's very hard to say at this time because what has been passed to us is just a framework, but I do believe there is a section there that would allow for a small part of input into that.

Mr Bert Johnson (Perth-Middlesex): You mentioned the costs of conforming to, and that would be manure storage and things like that. Part of that will be the provincial government, I assume, and it gets its money from taxation. I wanted to know how you feel

about taxing those farmers who use dry manure, and have for generations, if it's all right or your feeling on taxing those to pay for the storage and so on of liquid manure.

Mr Ridder: I do believe that today's farm economy does not allow for much input that does not add to the bottom line. We are asked to do things that benefit the environment but do not give us any extra income. Those things benefit society as a whole and we feel that society as a whole should be able to fund some of that.

The Chair: I wish to thank Mr Ridder and Mr Regele. We appreciate your input.

0930

PERTH COUNTY FEDERATION OF AGRICULTURE

The Chair: I now wish to call forward our next delegation. Our next group is the Perth County Federation of Agriculture.

Mr Brent Royce: I'm Brent Royce. This is Paul Verkley.

The Perth County Federation of Agriculture wishes to thank the justice and social policy standing committee for the opportunity to participate in the consultation process on Bill 81, the proposed Nutrient Management Act.

As I said earlier, my name is Brent Royce. I farm south of Listowel on a turkey cash crop operation. Paul's farm is down the road. He's a retired dairy farmer now. We are both members of the Perth County Federation of Agriculture.

The Perth County Federation of Agriculture, on behalf of its 1,800 members, along with our local commodity groups and municipal leaders, has been discussing the issues around nutrient management for some time now. The discussions generated show the complexity of the nutrient management issue. Our debates have revolved around the land-based science of nutrient management, domestic versus export production, independent versus corporate controlled farming, risk management of small versus large quantities of nutrients, transportation of nutrients, the patchwork of bylaws concerning nutrient management and the effect bylaws have on beginning farmers like me and established farmers.

It is fair to say that the members discussing the issue have very diverse positions on the subject of nutrient management and the collective issues that surround it. One thing that we are very sure of is the need to ensure that whatever legislation and regulations are in place, farmers must be allowed to prosper economically in an environmentally responsible fashion. The economic factor of having agricultural production in Perth county alone accounts for 30% of the workforce and creates sales of goods both off and on the farm of well over \$1 billion annually.

Agriculture is a lot of things in this province. It provides a safe and secure source of a wide variety of food products for consumers, it is how I make a living, it is how I contribute to the economy, it is how I am a part

of the community and how I provide for my wife and my little baby.

We also realize that farming comes with a lot of responsibilities. As farmers we have the responsibility to care for the land and to ensure that the resources we are in charge of are handled in a responsible manner. We have always maintained that farmers do not have the right to pollute, either by the application of manure nutrients or commercial fertilizers. We appreciate the fact that all sources of nutrients including biosolids are included in the legislation. We feel there is a need for this type of legislation that outlines how individuals applying and supplying nutrient sources to farmland in Ontario will manage these resources.

In formulating our response to the legislation, we have some observations and concerns which we would like to bring forward. The Perth federation supports the intent of this legislation that all agricultural operations using nutrients be required to develop and put into practice a nutrient management plan. The categories that have been explained to the public to date suggest four categories of operations. We certainly support province-wide regulations that are appropriate and feasible to the individual categories. It is vital that clear, consistent regulations apply to all farmers equally in the province regardless of their location. The process of developing a nutrient management plan for an individual operation should be based on science and will identify the capability of the individual operation to utilize nutrients in a manner that protects the environment. It must clearly be understood, that a NMP is a living document allowing for flexibility because of the natural variables that agriculture must work with on a day-to-day basis. The legislation needs to reflect this in its regulations.

The legislation does not identify a particular lead ministry and it has been suggested that third party delivery and/or administration is possible. The Perth federation feels strongly that we need a ministry, and its staff, that understands agriculture to deliver the legislation. We feel OMAFRA needs to be the lead ministry on this legislation to maintain control and delivery of it. We need to ensure that the components of the act are delivered across the province with consistency and that OMAFRA funding should be increased in order to provide this. Downloading the delivery of the regulations to a third party means it will more than likely become a cost to the farmer, and since the benefit of compliance will protect the environment, the costs should be shared by all of society.

The development of the specific regulations establishing standards that farmers will have to comply with must be in consultation with the agricultural community. This consultation must be ongoing to allow for the use of new technology, new research and new management practices.

In 1996, Perth was the first county to implement the idea of an agricultural peer review committee. The committee works to respond to concerns from local citizens about particular nutrient management practices. We feel

that the process works well and, therefore, feel the legislation needs to indicate that peer review committees will be established. These committee members would also be beneficial as independent witnesses in those cases where penalties are levied.

Perth County Federation of Agriculture supports the need for agreed-upon regulations to be properly enforced, regulations that are consistently enforced across the province. Inspectors need to have a knowledge of agriculture and what constitutes a normal farm practice. The power of enforcement and inspection holds with it certain responsibilities. Those officials responsible must be aware of the very specific biosecurity protocols that are in place on individual farm operations. Consultation with farm organizations will be required to develop specific regulations to ensure biosecurity protocol compliance.

With regard to establishing nutrient management plan registries, reviewing nutrient management plans and issuing certificates and approvals, the Perth Federation supports OMAFRA having these duties. The performing of these tasks is an integral part of the compliance of the specific regulations that will be set out in the legislation. Compliance of the legislation is a benefit to all of society. Since OMAFRA's budget is supported by all the taxpayers of the province, these duties should lie with them.

It is suggested in the legislation that records and documents be in an electronic form. We don't feel that the required documents need to be in an electronic form. Considering that all farm operations will eventually have to have a nutrient management plan, it must be noted that not all operators are set up for this type of documentation. Written plans and documents need to be acceptable forms of complying with the regulations.

All of society has to play a part in either enhancing our environment or ruining it. We feel that since proper management of nutrients is a benefit to society, then all of society needs to be part of the solution. We would like to impress upon members of the committee that the government of this province needs to make a long-term commitment to funding the delivery of the legislation. Government also needs to provide funding programs to farmers so that they can comply with the regulations. As farmers it is difficult, if not impossible, for us to recoup these added expenses from the marketplace. As we have already have stated, for us to comply is a benefit for all.

There is a need for independent government research into the soil/nutrient/chemical relationships and other options for nutrient management. Nutrients are too valuable for producers not to be utilizing them effectively and potentially too dangerous to the environment if not properly utilized.

In summary, the Perth County Federation of Agriculture wishes to thank you for this opportunity. We need to ensure that whatever regulations are in place, they must allow our agricultural sector to prosper and grow economically in an environmentally responsible way, with minimal impacts on the rest of society.

The Chair: Thank you for the presentation. That leaves two minutes for each party for questions. We'll begin with the NDP.

Ms Churley: Thank you very much for your presentation. There's never enough time to ask real questions, but you said a lot of interesting things.

One of the concerns we hear repeatedly is that farmers are very concerned about the costs involved here. Is one of your biggest fears that you'll have laws passed that will incur costs and some of the smaller farmers might be put out of business?

Mr Royce: Yes. It's tough enough to make a go of it now these days and you add another extra overhead cost and where you have pencilled out is not going to work any more.

Ms Churley: This may put you on the spot a little bit, but do you think the really big farms should be treated differently from the smaller farms in terms of paying the costs?

Mr Royce: No. The bottom line's all the same, so I think they should all be treated equally and they should all have the responsibility.

Ms Churley: OK. Thank you.

The Chair: I'd like to go to the PCs.

Mr Johnson: It's good to see you this morning and thanks for being here.

You had mentioned in your presentation about the lead ministry being OMAFRA, the Minister of Agriculture, Food and Rural Affairs, and I assume that's in relation to whether it should be the Minister of the Environment or the Minister of Agriculture. I would like to know what your feeling would be on making it a third choice, perhaps, the Minister of Natural Resources, only because the conservation authorities come within that ministry and they would then deal on a watershed basis as opposed to the municipal boundaries. I was wondering about any comment you might have on that.

0940

Mr Paul Verkley: Sure, maybe I'll catch that one. There's been a lot of discussion around that and the appropriateness of which ministry could do the job. Certainly OMAFRA has all the technical expertise and the history with it to throw in. To expect anyone within the Ministry of the Environment or within the Ministry Natural Resources to be as aware of the normal farm practice, and to get them aware of the farm community and how it operates and in turn have the farm community have any confidence in that ministry, would take an awfully long time. We feel that all ministries are well run in the government, and why wouldn't you use the one most familiar with that area of expertise?

Mr Johnson: OK, thank you.

The Chair: Thank you, Mr Johnson. We'll go to the Liberals.

Mr Peters: I'd like to ask Paul a question—not so much Paul wearing his Perth Federation of Agriculture hat but recognizing that you've been involved in this issue for a long time.

One of the things that we've been hearing virtually from day one, and this is stop number 5, has been the need for more research, Research in a lot of different areas, whether it be understanding how an intensive

livestock operation operates, to soils, to groundwaters, to surface waters and recognizing the intensive livestock operations are something that's of a more recent nature. Do you think that we understand the science of an intensive livestock operation or is this something we need to initiate as a government to conduct research to try and answer the questions or make sure that we better understand what an intensive livestock operation is? Do we adequately understand it or should we be doing more to understand it?

Mr Verkley: One doesn't know until one does the research to see if there's anything more to be learned by that research. Clearly, I think we've shown in Ontario that farmers are becoming very aware of intensive livestock, how they handle their farms on a larger and larger scale. There's an awful lot of science that goes into that. There's an awful lot of understanding of that farm operator as to what he or she is dealing with.

Technologies change. As an example, we've switched, basically, over the last 30 years, from a solid manure system to a liquid manure system. There's an awful lot of science around that. That knowledge has been accumulated within the farm operators, within the manufacturers of application equipment and stuff. We've come a long way and we're seeing a lot of effort being put into proper application technology surrounding different types of liquid manure or biosolids or anything else. Every one's a little different.

We always like to see more research being done, because a part benefit of research is that you then get a technology transfer when that research is completed. Sometimes research is simply going out and finding out what's working in different areas as opposed to actually inventing new information—transferring information that's out there somewhere that not everybody knows about and moving that across.

I think that historically has always been the role of the provincial government—through OMAFRA—where you had all these field people that we used to call ag reps etc. Their main job was basically to run around the country talking to the farmers who had some of the better answers or leading-edge technology, utilizing those people in the research they were doing on their farm and spreading that through the rest of the farm community. I don't think we can replace that contact with those innovative farmers and stuff by saying we'll go to the University of Guelph and get all our answers there because, by the time you even identify an area of research you want to go into, farmers have probably been farming with that area of concern for the last five years. They are already coming a lot closer to solutions or knowing what won't work and they just send a researcher in and independently try to do research. We need to be careful when we talk about research—what's our end goal here? A lot of times it's the tech transfer that is the most important part of research.

The Chair: Thank you, Mr Verkley and Mr Royce. We appreciate the presentation of the Perth County Federation.

COALITION OF CONCERNED CITIZENS OF HURON-KINLOSS

The Chair: I wish to call forward our next delegation. We now wish to hear from the Coalition of Concerned Citizens of Huron-Kinloss. Good morning, sir. We'd ask you to give us your name for the Hansard recording. As an organization, you have 15 minutes.

Mr John Welwood: Good morning. Thank you for allowing us to express our concerns. My name is John Welwood. I live here in Kinloss on the shore of Lake Huron. I am not a farmer and I do feel somewhat like Daniel in the den of lions this morning. What I have to say will probably disappoint or upset some farmers. My main concern is about the new industrial farming, the new type of concentrated livestock operations that we're beginning to see appear in Ontario and North America.

I was asked to be the spokesperson for our Lake Huron shoreline community, which is located in the southwest corner of Bruce county. By way of background, our coalition of concerned citizens group was formed earlier this year. Along with the rest of the shoreline community, we live downhill and downstream from the lands that will be part of a large, concentrated hog operation, if it proceeds as currently planned.

Our main concern with this proposal is the potentially devastating impact of this operation on watercourses already loaded with bacteria and the potential for similar impact on Lake Huron itself. The operator plans to spread millions of gallons of untreated liquid manure over an area that has significant drainage that flows into Lake Huron.

The members of our group consist of many of the residents of the shoreline community at the bottom of the slope and along the lake itself, as well as neighbours and others in proximity to the proposed hog operation on top of the slope. We have grown from an original group of about a dozen anxious ratepayers to a very large, amorphous group, not all of whom are known to me personally. We have solicited signatures and support at various meetings convened to deal with the matter and have over 600 signatures expressing support for the group's position on this issue.

We were and are concerned about the close proximity to Lake Huron. As this new type of industrial farming has spread, environmental laws created when small operations were the norm do not seem to address the environmental risks that come with more intensive, concentrated farm operations. We think this will have a significant environmental impact for Lake Huron and serious health and environmental risks for the communities that live along its shore. We would like to see the Ontario government put strict regulations in place that would adequately deal with the problem of poor manure management. It is with this in mind that we have listed some recommendations we would like to see Bill 81 address.

OMAFRA should do more to discourage the use of liquid manure systems, particularly with new concentrated livestock operation applications. Alternative tech-

nologies are available and relatively inexpensive in the context of the costs of these new industrial, concentrated operations, which would assist greatly in reducing environmental impact on the surrounding community. These technologies might add to the cost of construction, but they would have a tremendous positive impact on the potential risk and on the surrounding land uses and occupants.

Environmental assessments: we feel that the new legislation should recognize the need for mandatory, conditional or scoped environmental assessments for any new concentrated livestock operation proposal. Nutrient management planning is an agronomic exercise which focuses on trying to balance the nutrients applied with the needs of the crops being grown. There is no mechanism in the nutrient management process for evaluating the impacts of nutrients or pathogens in the manure on ground or surface water. There is presently no requirement for potential environmental impacts to be assessed or dealt with through the current nutrient management planning process. It's the opinion of the Maitland Valley Conservation Authority, as well as ours, that there is a very real potential for pathogens to get into the watercourses when liquid manure is spread on tile-drained land. We feel it is essential that the potential environmental impacts of large-scale, concentrated livestock operations be evaluated prior to being allowed to proceed. This would go a long way to address the concerns of the surrounding community.

We would like to see the government make sure that any new operator or owner of a large, concentrated livestock operation prepare an environmental risk plan. This could include things such as a mandatory planting of riparian forests, the establishment of a buffer zone along waterways to reduce surface runoff, keeping livestock out of waterways, identifying drainage outlets of intensive livestock operations and monitoring discharge. The township of Huron-Kinloss has included an environmental risk component in their nutrient management plan bylaw, which sets the bar high for environmental protection. An environmental plan should also ensure strict odour control and prohibition of airborne particulate distribution. Again, the province should be actively working to discourage the use of liquid manure systems.

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Sites being considered for any intensive livestock facility should address more than just the MDS requirements, which are aimed primarily at odour. They should address soil conditions and subsurface soil structure, such as bearing capacity, soil permeability and the depth and extent of the aquifers. Minimum distance separation should also include maintaining adequate distances from environmentally sensitive landscapes. Geoff Peach of the Lake Huron Centre for Coastal Conservation recommends that adequate distances between intensive agricultural uses and environmentally sensitive landscape features should be maintained:

"For instance, a minimum distance could be prescribed between the active farm operation and a water-

course, or a recharge area, or other landscape feature.... Great Lake coastal communities"—like ours—"ultimately feel the brunt of rural non-point source pollution since they are the receiving waters of Ontario's watershed systems. With recreation and tourism being the main economic drivers of many of these communities, polluted coastal waters can have a serious impact on business in the region."

We encourage the government to address this concern in this proposed nutrient management legislation.

Intensive livestock facilities should be required to undergo a regular scheduled performance review by a competent and independent review authority. This review authority could be a municipality, the Minister of the Environment and Energy or a local independent inspection agency. Failure to comply with the local criteria should result in a facility being shut down. Independent third party reviews of intensive livestock operations should be mandatory. They should also include a compulsory monitoring component to determine if adherence to the plan is taking place and whether there is nonetheless an adverse impact to surface and ground-water quality, as well as soil quality. At the very least, a nutrient management plan should be required to receive ongoing monitoring so that it can be adjusted to suit the individual operation. Because it's not a precise science, field monitoring and independent verification are essential.

While it is hoped that the new legislation will provide strong, province-wide environmental protection, it is also desirable for the legislation to allow for a degree of municipal flexibility to meet their own unique needs, as long as any municipal initiative doesn't decrease the environmental protection provided by the new provincial legislation.

Enforcement: while the proposed Bill 81 allows for enforcement by the Ministry of the Environment or OMAFRA, we believe that the responsibility for enforcement should be focused on the Ministry of the Environment. OMAFRA's primary mission of supporting and encouraging agricultural growth could conflict with the environmental protection needs. In addition, the Ministry of the Environment's primary mission is environmental protection. For these reasons, we think that the regulations should be drafted with significant Ministry of the Environment input, but the enforcement to ensure compliance should be left solely to the Ministry of the Environment.

Funding, resources and training: it's important for the government to commit funding, training and resources immediately to ensure that the new legislation will have the desired impact. Without increased staff to carry out nutrient management plan compliance, enforcement and success measurement, it's highly unlikely that the new legislation will encourage environmentally responsible farming practices.

In closing, we remind you that our group, although quite amorphous, is comprised of farmers, cottagers and permanent residents who have a very real concern about

our Lake Huron environment. The Walkerton tragedy has made our community more aware of the dangers of liquid manure and its potential to pollute our ground and surface water. It is essential that Bill 81 will restore the confidence of Ontario citizens that our water will not be at risk.

Thank you for allowing us the opportunity to provide input.

The Chair: Thank you, Mr Welwood. You've left two minutes for questions from each party. We'll begin with Mr Murdoch of the PCs.

Mr Bill Murdoch (Bruce-Grey-Owen Sound): You mentioned in here that maybe there should be forests planted and streams fenced and that. Would you feel that maybe the province should pay for that, that everybody should pay for that, or where would you put that cost?

Mr Welwood: I feel that Ontario society should be paying for it, everyone, not just the farmer. If that means that our food costs go up, that's fine, but it's the price we have to pay. There's no way that we can ignore the environment.

Mr Murdoch: No, I'll agree with you on that. It's just that some costs may put farmers out of business, so you have to figure out who's going to pay for this. You feel then that should maybe come from the province?

Mr Welwood: I think from the province and not just from the farmer. I think for the small farmer especially, there should be a special understanding for his situation. Again, my main concern is with the industrial-type operations that we're beginning to see appear.

Mr Murdoch: Where we get into problems is that there are a lot of rivers and streams, and if we have to start fencing them all, farmers couldn't afford to do that.

Mr Welwood: There should be, hopefully, some subsidy to help the farmer do that, some program.

The Chair: We'll go to the Liberals.

Mr Peters: John, thanks very much for your presentation. On page 1, you talk about banning liquid manure systems. You further go on to state in your presentation that "alternative technologies are both readily available and relatively inexpensive in context of the costs of the new industrial concentrated operations." I was wondering if you could expand, and not necessarily today, on some of these alternative technologies, or perhaps if you could prepare a package for us that could be made available to us just so that myself and my colleagues understand.

Mr Welwood: I would be very glad to do that. I have a couple of samples here today, but I would be glad to prepare a package and send it to you.

One article I have today is an operation that's out in Saskatchewan. They have a 5,000-hog operation. It's a dry compost system of sawdust. It probably requires more man-hours. He has to move this out by a bucket on a daily basis, I think. It's combined with straw. The odour is not a factor, it's eliminated, and he's left with a product where the pathogens are removed and he's able to sell some of this stuff that's left over commercially for

gardens. There aren't any complaints by the surrounding communities.

That is one source. Another is Byron Ballagh of Ballagh Liquid Technologies from Wingham, who has a system. I don't know very much about the actual mechanics of it, but I understand that he can remove the pathogens from the liquid and render the liquid harmless. There are alternatives out there. I just think there has to be an economic incentive for farmers to use it, if they can be convinced in the long term that these technologies are workable and will work—

Mr Peters: At a cost.

Mr Welwood: —at a cost—and that in the long term, it would be an economic advantage, it would be worth trying out.

The Chair: We'll go to the NDP.

Ms Churley: Thank you very much for your presentation. One of the areas of controversy—and I asked this question before—is around local control, local say. Of course, regulations have to be developed yet, and I'm sure you will want to be part of that consultation. But that's quite controversial. AMO came before us and suggested that they would like to see some local control. However, it's my understanding that this municipality—and I know they can speak for themselves, but they're not—would rather have the province take it over. I just want to hear your opinion as to how you see this unfolding in terms of local control over what happens on their own land.

Mr Welwood: I can certainly understand the municipality's reluctance to want to have to deal with the issue. From their point of view, I can see they would like to just have it sloughed off to another level. My concern, living in the community where we live, is that if we have province-wide regulations, it's perhaps not going to address the unique nature of our shoreline and our community concerns. We would like to see some flexibility in our municipality to deal with our specific case. We feel there's a significant drainage into our area and it may mean that we need more protection from large, intensive livestock operations.

Ms Churley: Than some other jurisdiction might, depending on the soil and the headwaters and things like that.

Mr Welwood: Yes.

The Chair: Thanks, Mr Welwood. We appreciate the Coalition of Concerned Citizens of Huron-Kinloss for coming forward.

Mr Welwood: Thank you for allowing me to contribute.

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JIM LUCAS

The Chair: I call forward our next delegation, James Lucas. Individuals have a 10-minute presentation. I'll advise the committee that there are just two copies of the presentation. There is no photocopier here. The clerk will

forward copies of the brief to MPPs' offices. We would ask you to identify yourself for Hansard, sir.

Mr Jim Lucas: My name is Jim Lucas. I live in North Perth and I'm a dairy farmer. I'm here representing myself. I am going to do a different presentation today. I'm dealing more with the regulations and the building process that goes on within the province and that's what I'll be speaking on.

My first point is, what good is a nutrient management plan on an overbuilt barn? If I intend to build a new dairy barn this year, I'd simply fill out a nutrient management plan and switch from the old bank barn to a new barn, but I'd build an overbuilt barn and start in the fall and do a factor C at one stage so as not to get caught up in regulations. When I get the new barn built, I'll just simply keep the old barn that I've already promised to tear down, and I'll have a nutrient management plan stating that I have 100 animal units, when actually I'll have 300 animal units in this building process. When I get that done, in two years I'll be able to apply to build a second stage and do the same thing again. I'll build another 200-head facility and then turn around and have a nutrient management plan for another 100 head on that 200-head barn. The way I will do that is I'll get cement building blueprints to a building inspector which are phony.

We all know that I'm full of hops in what I've just said, because I'd never be able to get the financing and afford to buy the quota, but in theory I should be able to cover the whole farm with a barn. It's just simply too costly to do that. But in beef and hogs, where there is no quota, it's a different proposition.

For those of you who have this pamphlet, it shows a proposed plan for somebody in North Perth a few years ago, in 1994, and they're proposing to build four 2,000-head barns at a 700-foot setback. This plan was submitted to the principal engineer. On our second page it shows how he should have a separation distance of 1,220 to 1,300 feet under the MDS. This plan was subsequently issued a warning by the principal engineer at the time which states, "to relocate barns to meet separation distances to houses or purchase the houses."

So it posed a bit of a problem. At that time, the principal engineer, on the next page, outlines a plan on how to do a factor C and then the distinction between "new" and "existing." As soon as a barn is built it becomes existing, and by that you just simply—that's the second loophole—declare it "existing" and then you file for a new expansion and you can double up that operation again. The other page, page 5, is simply more of that.

This agricultural operator who filed the initial plan starts thinking about this and he says, "OK, this is fine. I want to build a 2,000-head barn," but he does the paperwork for 1,000 head, and that comes in where the 6,000 head appears on the top of page 6. There are two cycles in a weaner barn per year, giving you six cycles. Every eight weeks a different cycle comes in.

If you turn to the next page, we have a blueprint submitted by this agricultural operator and it says "a

proposed 1,000-head barn," but if we do the math on the square footage on the Canadian building code's plan M3000, we'll soon discover that it's not a 1,000-head facility, it's a 2,000-head facility, and it indicates that it's got a 400-foot setback. If you turn over the next page, page 8, it indicates that a real estate sale on a hog farm near Listowel is \$28.80 a head. That's fine, but if we get the compliance out, which is on the next page, it shows how 1,440 head of weaner pigs are supposed to be contained within that barn.

To me that proposes a bit of a problem under the Canada farm plan which is on the next page, plan M3000. If we look down the third column there, it shows that 2.2 to 3.3 square feet per pig is the required space placement for that kind of a facility. So if we work out the math on the next page, we'll find that the barn sizing on the first situation was 84 by 160, divided by the 2,000 weaner pigs, and you come out with 3.84 square foot per weaner. That's not too far off; it's only slightly overbuilt. If we look at the second situation, situation B, we find that the barn sizing was 54 by 200, divided by 1,440 pigs, and it comes out to 7.5 square feet per pig. That should have made a little bit of a red light go on with our building inspector and our principal engineer.

The next page contains two guideline booklets from our MDS. In column one—

The Chair: Excuse me, Mr Lucas, I just want to caution you with respect to some of the documents that have other people's farm addresses and names on them. I will mention that in these hearings an MPP, for example, is protected by parliamentary privilege against lawsuits and things like that. I should caution you that when you are presenting this in public, it's being recorded by Hansard. You are submitting this to the committee.

Mr Lucas: I think you'll find that there are no names on any of that stuff.

The Chair: I thought I read some names. I just caution you on that.

Mr Lucas: They're not supposed to be on there.

The Chair: We could check if there was a problem. You may want to remove a page or two from the evidence that you've presented.

Mr Lucas: OK, I can do that.

The Chair: I just wanted to caution you on that.

Mr Lucas: Thank you, sir.

You will find that under the MDS II there is no distinction for what covered storage is, particularly underneath the slats in a barn. This kind of enters into a grey area. If you talk to any of our OMAFRA officials, there is no definition for what that is. So if you see a new barn being built someplace and separation distance for the manure tank generates quite a substantial increase, you'll know that a building inspector is using that loophole. That's the distinction.

On the two loopholes, I can understand why Keith Clark drew them up in the MDS way back in the 1970s, like factor C and the distinction between "new" and "existing," because we had to have some kind of room in the future for expansion. I agree with what Huron county

is trying to do within their official plan, that there should be a three-year wait process before you can just double up your operation, such as I have indicated. There's no distinction, once again, between what a sink full of water is and what a barn storage is or an outside tank.

Earlier this year, I had the privilege of listening to one of our great planning minds in the province and it seemed to me that his opinion was that the Canadian building code was the only thing that we needed to honour, that none of the Planning Acts within municipalities seemed to matter much, only that the rights of the person who is applying for the building permit are honoured. I think the province-wide standards are going to do away with municipalities' rights. It seems to me that's the only protection that we, as private citizens, have, these municipal bylaws. I don't think we need another batch of useless guidelines. Guidelines are great from a provincial standard because there's no interpretation, no regulation and no enforcement. I don't think a one-size-fits-all approach is the way to go here. There are a lot of us that have small family farms and we need some funding to fix up these manure storages. A one-third grant such as the CURB project would be just great and then a tile-drain-style loan for the balance—

The Chair: Mr Lucas, I'll have to interrupt you again. I think you're referring to an active case before the courts that would not be within the purview of this committee. If you wish, I can read this cautionary note again. I think this is very important.

Mr Lucas: I'm finished.

The Chair: Fine. Our time is pretty well up anyway. You can touch base with the clerk as far as the submission that you presented in writing.

Mr Lucas: OK.

The Chair: Fine, then, Mr Lucas. Thank you very much for that presentation to our committee.

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PATRICK LYNCH

The Chair: I'd like to call forward our next delegate, Patrick Lynch. Is Mr Lynch here? Good morning, sir. We have 10 minutes for individuals.

Mr Patrick Lynch: Thank you very much for this opportunity to speak to this delegation. I'm very impressed with the depth of the questions that are being asked. It shows a great understanding of some of the issues.

I come representing myself. I have worked with the farmers in this area for 29 seasons now in terms of growing crops and working with manure and how it can be utilized, having worked for a number of seasons with the Ontario Ministry of Agriculture, Food and Rural Affairs. I'm also the vice-chair of the certified crop advisers of Ontario. Unfortunately, we do not have a position developed at this time, so I am not representing any of their opinions. All opinions expressed are my own.

I have two issues with the present act as it stands. I have read through it thoroughly and I am very surprised at how well it has addressed many of the concerns. I am impressed with it. There are two concerns I have which are really not inside the act, but we're getting ready for the next round.

The first is with the standards and regulations. I'm very concerned that the standards and regulations be separated into two components, one to do with the engineering aspect and the other to do with the management of the nutrients that are on the land. Currently, they're all thrown in together under one piece of software, as it were, under one set of rules. The engineers are reviewing the standards for the building, the minimum distance, the storage, and are also reviewing the area for crop production. I feel very strongly that the engineers are well versed in the part dealing with structure and storage but not so well versed in the area of agronomics.

As we go down the road, I believe that all farmers will have nutrient management plans. Certainly, the cash croppers do not need an engineer to be looking at how they're applying their nutrients. There are livestock buildings out there now that could be better with the help of engineers.

The second part has to do with the piece of software that is now ruling and dictating all of our current nutrient management plans. It is an outdated piece of software in terms of technology. It's very frustrating to work with. If this piece of software is to be the main part of this legislation, we are in trouble. I have a lot of respect for the engineers who are working with it. I would hope that one of two things happens: within the Ontario government they will find new monies to help the people who are developing this software to make it much more user-friendly; alternatively, I hope that it would be possible that outside companies could develop software that would get to the intent of this bill with a lot less paper. One that comes to mind right now is a nutrient management plan for a farm outside of Clinton. It expanded to about 60 cows, with 300 pages of paper for this type of an expansion.

Those are my two issues. I would gladly entertain any questions if anybody has them.

The Chair: Thank you, Mr Lynch. That leaves us two minutes for each party. We now commence again with the Liberal Party.

Mr Peters: With the points you raised here, who should be the leader in dealing with these issues? Is this something that should come from the agricultural community or should this be driven by us, the government; specifically, any ministry?

Mr Lynch: As far as the standards and regulations, I feel very strongly that the Ontario Ministry of Agriculture, Food and Rural Affairs should take a lead as far as establishing the standards. Again, under the OAS system, the engineers could be looking at the engineering standards, even as they apply to silo gas or manure gas, as we saw with this building collapsing. But in terms of rates of fertilizer, how the nutrients interact in the soils,

that should be under soil scientists. The Ontario Soil Management Research and Services Committee would be the obvious place to put that and say, "OK, Ontario Soil Management Research Services Committee, you come up with the soil and fertilizer standards." So within the Ontario system there is already a place to have two sets of regulations.

Ms Churley: Thank you very much for your presentation. As you know, and I think you mentioned in your presentation, regulations are to come—

Mr Lynch: That's right.

Ms Churley: —and we don't know what those are going to be yet.

Mr Lynch: They scare me.

Ms Churley: They could be strong; they could be weak. That's going to be an opportunity for people who want to have a say to be consulted. For instance, it's the first I've heard about the particular software program, so I thank you for bringing that forward. You do mention that would be yet another cost. The government members are hearing that this is going to cost money.

Mr Lynch: That's true. There are other software programs available, if municipalities or if we had the right to use other software that was more friendly in terms of inputting data and taking it out.

With the standards and regulations, the way the standards are within the present NMAN program, which is the software, there are a lot of glaring discrepancies. There are a lot of areas where the research of the day is not being followed in the execution of it. I would suggest that if those standards and regulations are not adhered to as soon as the first nutrient management plan is passed under Bill 81, we will have both sides lining up and saying, "These are flawed," because the standards as set out are full of flaws. That will set the whole protection of the environment back.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): Thank you very much for your presentation. A couple of days ago we had a presentation from a turkey farmer and he said, "Education and certification for nutrient application should be required by both large and small operators at the same time." But I think I heard you say that cash croppers do not really need engineers to oversee the application of nutrient management. There seems to be somewhat of a clash here. Can you clarify this for me, please?

Mr Lynch: Yes. I would suggest that the overseeing of the nutrients by the cash croppers should be done by agronomists rather than engineers, so that a nutrient management plan that a cash cropper would draw up would be looked at, reviewed, and the standards set by agronomists rather than engineers. My vision is that, yes, everybody will have a nutrient management plan, but the guidelines and the standards for the cash cropper who is just dealing with fertilizers, or certainly the horticultural people—who I am very concerned about, especially as we get into specific quality requirements for these horticultural crops—the standards and the interaction with the soil they're working on must be looked at or those

standards set up by an agronomist/horticulturalist rather than by an engineer.

The Chair: On behalf of the committee, I wish to thank you, Mr Lynch, for the input today.

BRYAN DURST

The Chair: I would like to call forward our next delegation. We have listed Bryan Durst. Good morning, sir. Individuals have 10 minutes.

Mr Bryan Durst: Thank you. Good morning, everyone. I'd like to thank you for the opportunity of addressing Bill 81 here today.

My name is Bryan Durst. I am a farmer. My farm is located approximately five kilometres straight north of here. On it, along with my wife, Mary Grace, and my two children, Kendall and Tyler, we produce eggs, beef and crops. I was raised on this same farm that I now own, making me a member of this community for over 42 years now.

The proposed legislation on nutrient management will have a direct impact on not just my family, but on each and every family in the many communities here in Huron county.

This issue has already caused quite a bit of interest and debate among local residents. As you probably know, some townships in Huron county already have passed bylaws related to manure handling and livestock expansion.

This is why I believe, like many others around here, that Bill 81 is a very important initiative. Not just because it will help to protect our environment, but also because it will help to promote harmony among all residents of rural Ontario.

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My wife and I certainly share the ministry's interest to develop consistent and reasonable standards: consistent from the standpoint that all regulations should be applied equally and fairly across the province; and reasonable from the standpoint that the regulations should not place burdens on farmers that may force them to exit the industry. It only makes good sense.

For farming communities like mine, a healthy environment is directly linked to a healthy economy. To farm productively it requires that we preserve natural resources like water and soil. The way we manage these resources today will determine our future.

In the egg industry, we currently have an extensive on-farm food safety program. Our provincial association is currently working on incorporating best-management manure-handling practices into this same framework. I am pleased to hear that this legislation will build upon best-management practices as well. Best-management practices have been developed by farmers, whose livelihood depends upon preserving the environment.

Still, for this legislation to be truly meaningful, all farmers must adhere to the same province-wide management practices. Any regulations to come should be based on the environment, not on what municipality we farm in.

I am sure that when this legislation is enacted, farmers will be facing new investments to meet the new regulations. Most farmers I talk to recognize this and are willing to move forward. But I am here to today to tell you that, as a family farmer, the new investments must be reasonable.

Most egg producers I know are self-sufficient in terms of educational and training programs. Adopting new practices based on this new legislation will be no exception. However, the government still needs to help our family farms in terms of capital investments.

The province already issues tax credits to large industry for reducing air pollutants. It also provides money to municipalities for improving their sewage systems. Providing financial support to farmers would be a consistent strategy for this government. I'm not suggesting that a blank cheque needs to be written here. I am suggesting that when this is being considered serious thought go into who benefits from the required changes, and then costs should be shared accordingly. As a farmer, I state to you that I am willing to pay my fair share.

I have heard some individuals suggest that a minimum amount of land may have to be owned by each farmer, based on the number of livestock. This would put a huge burden on small-acreage livestock producers without doing anything to address the environmental issue. The real issue is that manure needs to be properly applied to land that requires it to grow crops. A nutrient management plan addresses this. If a livestock farmer has an approved nutrient management plan that includes spreading manure on neighbouring lands, would this be less environmentally friendly than if he owned the land? I suggest that the answer has to be no. The focus needs to be on applying the nutrients properly and in the right quantities, not on who owns the land.

As with any rules, enforcement becomes an issue. I hope we don't have a power struggle looming, with both the OMAFRA and MOE wanting to enforce the act. I do believe there is a role for both of them to play: OMAFRA should enforce nutrient management and farming practices while MOE would look after pollution spills and infractions. This would utilize the strengths of both ministries and it should save a lot of money that would otherwise have to be spent on training.

I mentioned earlier that I have lived in this community of Colborne township for more than 42 years. Actually my roots go even deeper, as my great-grandfather moved here over 125 years ago. He raised my grandfather here, who in turn raised my father here. I tell you this to illustrate how committed I am to preserving our natural resources. There are many farmers who could tell the same story as that. As farmers we live and we raise our families in the same surroundings that we work in every day.

I make my commitment to you today that I will accept and abide by Bill 81. I ask for your commitment that you will bring Bill 81 to law in a form that has province-wide uniform standards for all, government help for required capital expenditures and a reasonable time to comply.

Thank you very much for giving me my say today. I'm happy to take any questions.

The Chair: We have just over a minute for each party. We now begin with the NDP.

Ms Churley: Thank you for your presentation. A couple of people mentioned earlier that they participated in the CURB program that the NDP government brought in. Were you involved in that personally?

Mr Durst: I was not. I have an interesting story to tell about that.

Ms Churley: I don't know if you have time, especially if it's bad.

Mr Durst: Very quickly, I applied to that program. I was refused funding and the reason was that my farm did not pose a serious risk to the water quality in the area, which should be good news, but I felt there were things there that were a problem that I've changed since.

Ms Churley: I think it was good program. It was a small program. Would you recommend that we bring something like that back?

Mr Durst: It would certainly help. We need something along those lines.

The Chair: We go to the PCs.

Mr Ted Arnott (Waterloo-Wellington): Thank you for your thoughtful presentation. I thought it was excellent, and we really do appreciate the advice and the constructive suggestions you brought forward.

One of the issues you raised was the idea of ownership of land: should the farmer be forced to own all the land that would be used for the application of nutrients? That is one of the crucial issues, I believe. I'm hearing in my riding that some people feel that should be the case; you're suggesting that should not necessarily be the case. Would you agree that there has to be some sort of a long-term contractual arrangement so that farmers have absolute assurance that they're going to have a place to put their nutrients if necessary?

Mr Durst: Absolutely, yes. I'm not suggesting that it could be willy-nilly. There have to be those agreements in place if a person does not own the farm.

Mr Arnott: Would you support any sort of a land-ownership component requirement or would you feel that—

Mr Durst: I would rather look at good science and focus on applying the proper amounts in the proper places.

Mr Peters: One area you didn't touch on—and I would just like to get your thoughts on it—is the question of inspectors' rights and biosecurity. What concerns would you have about the rights of an inspector to enter your farm from a biosecurity standpoint?

Mr Durst: As a poultry farmer, we locked our barn before we used to lock our house. So it's definitely a concern. However, I also recognize that we have to be open to it. There may be times that personnel have to come on the farm. I believe that will be a right of the new act which I can support, but we need to make sure those inspectors are trained.

The Chair: On behalf of the committee, we wish to thank you, Mr Durst, for this input.

COUNTY OF HURON

The Chair: Our next delegation is Huron county. Could we ask all three of you to give us your names for Hansard and then we can proceed. We have 15 minutes.

Mr Ben Van Diepenbeek: Thank you very much for the opportunity to address this committee. I'm Ben Van Diepenbeek, chair of the ag and public works committee at Huron county. With me here today are senior planners Wayne Caldwell and Scott Tousaw.

Mr Wayne Caldwell: I'm Wayne Caldwell and I'll be making the majority of the presentation this morning.

Thank you for the opportunity to present this morning. This is a complex issue, as I'm sure you've come to appreciate, with many different yet valid perspectives on it. From the Huron county perspective, there is a clear recognition of the need to find the appropriate balance between appropriate regulation, environmental protection and the realities of agricultural production.

Recognizing our time limitations this morning, we have provided you with a detailed copy of our report. In fact, we have three items: this item, which is the primary report; the green document, which is supportive materials—an extensive study that the county has done on the issue; and you also have a one-page outline, which is what I'll be primarily speaking from, to give you an idea of the notes that we'll be trying to cover.

There are three key areas that I want to address, one of which are some general comments; second, the implications of the legislation on municipalities; and third, what are some of the future directions that we would encourage you to consider.

1030

At the outset, we should say that we've provided significant materials to the government previously, to Dr Galt and Mr Barrett, when consultations were occurring in January and February 2000. There were a number of things we requested at that time: legislation providing clear lines of responsibility; clear enforcement and penalties; that we deal with large operations in a somewhat different manner than small operations; and we suggested that minimum standards would be appropriate. I think it's fair to say that we're pleased to see that those items have generally been addressed in Bill 81.

Of the three items that I'll be referring to, I would like to start with some general comments and, again, the one-page outline I've provided you with begins by identifying those.

I think it's fair to say at the outset that the legislation accomplishes a number of things. First, it provides the framework, in my opinion, for equitable standards across the province. Second, hopefully and probably, I think it should provide an overall benefit to the environment in that we should end up with more rigorous rules. It should also provide benefits, hopefully, to agriculture in terms of

providing more predictable rules. I think that's something both sides of the debate requested.

Next, there is the potential within the framework that is being proposed for a much more restrictive framework than what we currently have, particularly that which municipalities have been allowed to work under, given the Municipal Act and so on. It is also fair to say that there is a basis for continued conflict. We might be looking, as a community, for a resolution to the issue that would solve both sides of the coin and in fact continue to have that debate ongoing. That's probable.

Municipalities: it's probably fair to say that the draft legislation, if implemented, would result in NIMBY issues being less pronounced at the local level and probably more pronounced at the provincial level. I think it's fair to say, as a general overview comment, that so much of what we're looking at will depend upon the content of the eventual regulations themselves.

There are a number of implications that we see existing for municipalities. First of all, we can look at subsection 60(1). I'm sure all of you are familiar with it. That's a key section which essentially says that where a municipal bylaw and a provincial regulation deal with the same issue, the same topic matter, the provincial regulation shall override. It leaves a significant set of questions in terms of what that actually means for municipalities. Our take of it would be that municipalities become much less involved in the issue and the provincial government becomes much more involved.

Second, there are a number of unanswered questions, and I appreciate that it's difficult to provide the answers to those as yet, because of course we're waiting for the regulations at some future point. The content of those regulations will be key. Again, it provides the opportunity, through those regulations, to significantly deal with the issue from an environmental perspective both of being too restrictive or, conversely, not restrictive enough. Again, the challenge is to find that right balance.

We find that the legislation, at least in my opinion, provides relatively clear authority in terms of dealing with the issue, again, much of the responsibility being transferred to the province.

There are significant questions—and you've heard it again this morning—around funding and will there be funding available to facilitate compliance. We can look at it from the perspective that if the regulations themselves threaten agricultural viability, that is of course a concern to the community. It's certainly a concern to local economic development and what that might mean. Again, it raises the need for funding to facilitate compliance, and there's research currently being done that would suggest that the large operations are in a better position to deal with compliance than some of the smaller operations. So it probably needs to be targeted in that regard. Also, there is a key requirement for education and incentive programs, as mentioned.

Next, how does the legislation relate to existing municipal bylaws? We have a situation—if we go back to subsection 60(1), it would imply that municipalities will

be less and less involved, yet we've come to understand that the legislation and the regulations will be phased in over time, probably dealing with large operations initially and smaller operations later. It raises the question as to how that legislation will react to local bylaws in the interim. It's quite conceivable that municipal regulations may be more restrictive or less restrictive than the provincial standards, and, if you end up with different-sized operations getting treated differently in the interim, over that five-year phase-in period, then there's an issue of equity there that would need to be addressed as well.

There is a significant question around how we decide if a regulation supersedes a local bylaw. It's been clearly stated—again, subsection 60(1)—that the provincial standards will override local bylaws. How do we decide when and where there's a conflict there and whether or not the local bylaw should be superseded? That's a very significant question that will require attention.

Also, how will the legislation affect local authority to regulate land use? That's a question which has been brought up in planning circles across the province, I think it's fair to say. There's a key criterion included in the legislation which refers to the establishment of minimum separations to geographic features, but there is no definition that I've seen of what those geographic features are and how they might be determined. So whether there's a local role to be played in determining and identifying those geographic features is a key question which would help to answer and perhaps allay some of the municipal concerns around local authority and local planning.

We note that municipalities are essentially out of enforcement and I think there are some positives around that for creating an equity perspective across the province. But there are a number of questions which we would encourage you to think about. Will there be random audits? For example, section 12 would appear to provide that potential. It's certainly done in other provinces with success. Will municipalities be able to request inspections or participate in tribunal hearings when and if they might occur? A really key question is, will the province allocate sufficient resources—and I'm sure the anticipation is that you will—for implementation and enforcement? It's fair to say that in the county of Huron there has been a great deal of energy and effort put toward this issue and we've come to appreciate how detailed it is and how demanding of resources it is.

We also note that section 55 provides the opportunity for delegation and some significant questions around what the implications of that might be for municipalities. We would encourage you to be thinking about that further.

Next—and, again, this is a positive item—the regulations establish a municipal role in the establishment and operation of local mediation committees. Again, we would anticipate further details related to that in terms of the regulations.

I want to move to the final part of my presentation which refers to future directions. These build on the earlier points we've mentioned. These are items which

we would encourage you to think about in further detail as well.

First, the county, given our interest in the issue, is prepared to offer our assistance. While that only represents the assistance, I suppose, of one county, we have put a lot of time, energy and resources into attempting to deal with this issue over the last eight to 10 years.

Secondly, there is a recognition that there are regional differences, and that's part of the challenge in order to deal with this. Personally, I've dealt with this issue in other parts of the province and certainly dealing with this issue in eastern Ontario is very different from dealing with it in the southwest.

Thirdly, we've mentioned local planning already. I'll simply refer you back to the definition that remains undefined of what geographic features are; how we might define those and what the implications might be.

The need to monitor and evaluate is obviously a key component of the legislation. We would encourage you to be thinking about that down the road once regulations are drafted and put into effect to be sure that we're entitled, that we look at them and that we continue to make sure they're working properly.

I have not spoken nor have I heard others speak a great deal this morning about the whole notion of the nutrient management strategy. We've focused primarily on the livestock component, but the requirement for municipalities to complete nutrient management strategies raises a whole host of unanswered questions as well in terms of how that might be impacted with what I understand to be a proposed five-year implementation time frame.

I've already mentioned the provincial resources and the need for those. Again, just to reiterate, it is important that we have dollars to upgrade facilities, and I've mentioned in particular the small and medium facilities and how they might be treated.

It is worth mentioning that we've just started the healthy futures program in Huron and I think it's safe to say with great success already. That's the beginning, if you like, of a program that will be of assistance.

Finally, just to say that again there are further answers that come from further questions which will only come out of the regulations themselves. So in some ways it's difficult to provide a complete overview, because we continue to await what the specific details might be. That will provide a lot of answers to myself and the people behind me in terms of what the implications of the legislation are.

Finally, thank you. I appreciate that I've gone through it very quickly but I wanted to save a few minutes for discussion.

The Chair: We have just under two minutes for each party. I'll begin with the Conservatives.

Mr Beaubien: Thank you very much for your presentation this morning. You seem to refer quite a bit to section 60. Are you of the opinion that the provincial legislation should override the municipal legislation?

Mr Caldwell: I think, if I might, there are certainly advantages to that in many areas. What we're looking for

is a greater degree of equity and fairness across the province. Having said that, there continue to be local circumstances that we deal with, through official plans, as an example, where there are locally important issues, locally important criteria. I think it's fair to say that there be a local involvement in identifying what those are and helping to set the standards around that.

1040

Mr Peters: Gentlemen, being in day 5 of seeing various presentations, I want to thank you very much. This is probably one of the most comprehensive presentations we've received. It's obvious that, as a municipality, the county of Huron has been proactive on this issue and I commend you for it.

You raise these unanswered questions. As a former municipal politician, we were on the ground right there to deal with the constituents' issues. One of the things I've found is that you're further away from it now at a provincial level. You raise some good points, and I guess I look at it from the perspective of the politician trying to be able to help his constituents.

One of the things that has jumped out at me through your presentation is that if the municipality is not going to be involved in it and all of a sudden it's going to become a provincial responsibility, I'm governed by the Members' Integrity Act, which says that if something is before a tribunal, it's a quasi-judicial body and to back off. Then the constituent, the person out there, doesn't have anybody to turn to. They can't come to me. I can't do anything for them because it's before a tribunal. You can't do anything for them. That raises an interesting issue because, no matter what level, we're all there to serve people.

I guess those are more comments than questions. I thank you for what you've raised here. You certainly have made me think about where we are going with this. Thank you for all the background information.

Ms Churley: I'm going to enjoy reading this tonight. Thank you for the reading material. We're going to Owen Sound later this evening.

In this short time, I just wanted to briefly come back to the issue that was raised by the PCs, and that is that the municipal role in this is going to be controversial. We've all received letters from this area from both sides. We know about the controversies in this particular area. There have been some suggestions from some people who have written that because people are aware that this legislation is coming down, there's a push on, and those who want to start up intensive farms are doing it now before the legislation comes through. That's been a concern expressed to me on a few occasions now. Do you see that happening? Are there more of those coming forward at the present time?

Mr Scott Tousaw: I think it's fair to say that there are. It's an ongoing issue in the county.

I wish you well in going through the green background document that we've provided because it is fairly comprehensive and it's fairly long.

I guess what I would like to suggest on that note is to point out that there are probably three key sections that I would encourage you to look at. They are the summary of options, which begins on page 6, where there are over 50 options provided for consideration of nutrient management. This speaks probably more to the regulations you'll be dealing with later than it does to the legislation we're discussing today.

In addition to that, I would encourage you to look at the three maps which begin on page 68. They really highlight the magnitude of the issue and probably the reason that you're getting so many letters and comments of concern from both sides of the issue in Huron county. The growth of the livestock sector in Huron over the past five years has been substantial and we are anticipating it to continue. It speaks to the subsection 60(1) issue. This will provide a context for the need for regulations which address the magnitude of the growth that's occurred in places like Huron county.

Ms Churley: Thank you. That's very helpful.

The Chair: Thank you, Mr Van Diepenbeek, Mr Caldwell and Mr Tousaw. We appreciate the work of Huron county.

COUNCIL OF THE COUNTY OF PERTH

The Chair: Our next delegation is the Council of the County of Perth. Good morning, gentlemen. We would ask you to give us your names for the purposes of Hansard. We have 15 minutes.

Mr Vince Judge: My name is Vince Judge, warden of Perth county. I want to introduce to you Dave Hanley, who is our county planner. I'd also like to acknowledge that in the audience are five of the 10 members of the county council. In the presentation Dave is going to give to you are the comments and recommendations that our county council has put together and asked him to draft. We felt it was only right that he be the one who would actually present it to you.

I want you to know that county council has, as I said, introduced these thoughts for the presentation today and they have supported them as late as last Thursday; therefore, it may be considered an official document from county council.

Perth county along with Huron county are right in the heart of what we feel is the most important aspect of how nutrient management will be regulated. We are very fine agricultural land, probably the best that you're going to find in Ontario, and so the impact is extremely important as to how it's going to affect us.

I'd like to turn it over now to Mr Hanley to make the presentation.

Mr Dave Hanley: Thank you. First of all, the county of Perth wishes to thank this legislative committee for accommodating our request to provide you with a submission here today.

The issue of nutrient management is a significant and important issue in Perth and it's one which Perth county council, the councils of our local municipalities and

many organizations throughout the county have been encouraging the province to move on for some time. Over the last few years, the county of Perth has made several submissions to you. Included as an appendix or as an addendum to the submission you have this morning is the report we had given to Dr Galt and Toby Barrett back in January or February of last year. We appreciate the opportunity to share with you our comments today.

Agriculture has been, is currently and will continue to be an important part of the land use pattern of Perth county as well as the economy of Perth county. By way of background, the county is situated in southwestern Ontario and it is probably one of the few remaining bastions of agricultural land use in the province.

County council has taken a strong position in respect to the protection and preservation of our agricultural land resource base as evidenced by the official plan that the county has. I've included an excerpt from the plan in the submission material for your review.

The importance of agriculture is evidenced by a number of characteristics, and I've identified those on page 2 of the submission. I won't read those for you; you can take a look at those at your leisure. But I would draw your attention to point (e) particularly, that 11,134 jobs in Perth county, which is approximately 29% of the total population, are tied to agriculture; and secondly, that \$1.083 billion of sales occur as a result of agriculture on an annual basis.

Simply put, the county council has provided very clear direction that agricultural land resources are to be protected and preserved for future farming generations in Perth county and therefore it should come as no surprise to you that the county has a stake and an interest in this very significant issue.

As Warden Judge has mentioned, the comments in this report have been endorsed by Perth county council; as well, they have been supported by the councils of the township of Perth East, the town of North Perth and the township of Perth South. I understand that the municipality of West Perth will be making separate comments to you this afternoon.

The comments that we have are intended to hit on the major points, not be all-encompassing, and the comments are as follows:

We continue to support the principle that all farm operations should be subject to nutrient management and have suitable nutrient management plans. While nutrient management plans by themselves are not a total solution to the issue, they are a very important step and a part of that solution.

In 1998 Perth county council and Perth South council moved to establish nutrient management bylaws on their own, regulating certain types of livestock operations in the county. Since that time, we have had a total of 106 nutrient management plans approved in the county. For your interest, there were 22 approved in 1999, 52 approved in 2000 and the balance this year.

Since the adoption of those bylaws—I've mentioned 106 plans—in terms of land area, the amount of land that

is allocated to nutrient application through those plans is 33,500 acres, which represents approximately 6% of the farmland area in Perth county. I mention that because if the province moves toward nutrient management across the board, I think you can see from some of those figures the potential number of plans that we'll be dealing with in the following years.

1050

In the event that nutrient management plans are required for all farm operations, the county supports the idea that the nutrient management plan requirement be phased in over a suitable period of time, starting with larger operations first, followed by smaller operations. Ideally, yes, it would be nice to see it applied such that it was across the board. However, the reality is that there are very limited resources in terms of dealing with an all-at-once approach. While we have kept no specific records in terms of time spent on dealing with our 106 nutrient management plans, suffice it to say that it is a considerable amount of time and it is getting larger or greater as the number of plans increase.

Sections 5 and 6 of the bill provide the Lieutenant Governor in Council with the authority to make regulations with respect to a wide range of matters relating to nutrient management. The matters identified are general in nature and they provide very little in the way of specifics as to what the actual regulations will say. While we appreciate that the purpose of the legislation is to establish a policy basis, that the purpose of regulations is to establish the criteria and standards to implement that policy and that the latter typically follows the former, we do have concerns that regulations under the bill may be rushed through the approval process without sufficient time being taken for consultation.

Given that it is the regulations that will have the most significant effect on farming operations, we firmly believe that sufficient time must be allowed for meaningful consultation from all parties when it comes to the enactment of regulations. From our limited experience with nutrient management issues, matters such as the scope and extent of the plan requirements in relation to scale of operation or, more simply put, a graduated scale for plans, size of livestock or poultry operations—ie animal unit caps—and the ownership of land will be important and significant issues that are deserving of meaningful consultation prior to enactment of regulations. The county would encourage this committee to take a strong stand on the need to provide for sufficient time when we get to the regulations.

From our limited experience with nutrient management plans, it's evident that nutrient management plans can be complicated documents. It's important that the principles and concepts of nutrient management be kept simple in order that they are readily understood and easily implemented. The Bill 81 legislation and regulations that follow should not create a nutrient management process that is so complicated that it's incapable of being followed, nor should it create a situation where farmers are being regulated out of farming.

The move to nutrient management strategies for municipalities and generators of prescribed materials is viewed as a positive step and is supported by the county.

Paragraph 5(2)(r) of Bill 81 makes reference to geophysical studies, but again little detail is provided as to what they are. A number of questions arise. I've identified those in item 7 of the submission.

Clause 5(2)(s)(i) makes specific reference to minimum distance separations. We do request clarification from the province. Specifically, is it the province's intent that the MDS 1995 documents be replaced by the reference to minimum distance separation in Bill 81?

Paragraph 5(2)(z) refers to the establishment and operation of local committees to assist in the nutrient management process. The county, through its establishment of an agricultural review committee several years ago, does have some experience in this area and we encourage and support the province in its intent to establish a legislative base for the operation of such committees.

We note that subsections 8(1) and (2) of the bill refer to a 15-day time period whereby a farmer or somebody who is served with a notice has in which to serve their intent to require a hearing before the tribunal. We do feel that time period is too short, particularly given that the farm community is subject to particularly busy times of the year, such as harvesting time and planting time. We further suggest that you consider increasing that to 30 days.

Based on our reading of section 55 of the bill, it appears that the legislation raises more questions than it does answers in the area of delegation. For example, who will be responsible for doing what under the bill? Who will be responsible for the related costs? Who will be responsible for maintenance and operation of the nutrient management registry? Who will be responsible for the review and approval of plans? Will delegation agreements and the terms thereof be unilaterally imposed by regulation or will there be meaningful discussion and mutual agreement on these matters?

Given that Perth county and Perth South have a number of nutrient management plans in existence today and that we have bylaws in place, we are most interested in knowing what impacts the legislation and the regulations will have on our bylaws and the 106 approved plans. Will Bill 81 and the regulations that follow make all existing nutrient management bylaws redundant? Will the legislation and its regulations permit for the transition of existing nutrient management plans into the new nutrient management system? We have a number of plans that are due for renewal in 2002. Do we proceed with requiring that they be renewed or do we sit back and wait for the legislation and the regulations to follow and then go from there?

In conclusion, we want to assure you that the county continues to support nutrient management initiatives and in particular the province's move to establish legislation concerning nutrient management. Bill 81 is an important first step in addressing the issue and will provide the

much-needed legislative framework for dealing with this issue. While we, like many others throughout the province, have many questions and concerns about the legislation and what will follow, we believe and are hopeful that the questions and concerns we have will be addressed through the current consultation process.

We wish to reiterate our earlier comment on the importance of taking sufficient time for meaningful dialogue, discussion and consultation on regulations that will come forward under the bill and we ask that your committee provide strong direction in that regard.

On behalf of county council I would like to thank you for the opportunity of providing these comments today.

The Chair: Thank you. That leaves a brief minute for each party. We now start with the Liberals.

Mr Peters: Thanks very much, Mr Chairman. I just want to comment on your consultations. I think what we don't want to see is closed-door, backroom, secret consultations. I think, when the regulations are developed, that we need to make sure all the players are at the table. Certainly from an opposition standpoint we're going to do everything we can to make sure that happens.

Every presentation just shows more and more of the magnitude of this issue. When you talk about 106 plans equalling 33,500 acres being only 6% of the county, it's too bad that you haven't kept records on the amount of staff time involved. I think this is something else that was raised in the news we need to think about. We keep talking about dollars and putting dollars into this, and the dollar sign seems to be on the capital improvements that are going to be on the farm. But we're going to have to ensure that there are substantial dollars put into this just from the compliance end of it, not even the enforcement end. Would it be possible for you to give us some idea, if you wanted 100% compliance in Perth country, (a) how long it would take, and (b) how many staff people would be required? Again, this just keeps opening up more and more things, and if this is going to be provincially driven, then it's going to be incumbent on our colleagues across the way here to be dealing with the agriculture minister, the finance minister and cabinet to see that the resources are put in. If the resources aren't put in, what you've shown us right here, then this whole thing has fallen flat.

Mr Hanley: Interesting questions, interesting points. In terms of the time, it tends to be very concentrated at specific times of the year. Obviously, with the renewal of plans, with the renewal of forms, the February-March period tends to be quite concentrated in terms of one staff person dealing with this probably three or four hours a day for two or three weeks.

What we don't have a good handle on are the constant questions, the smaller issues that keep coming up. Whether it's a building official phoning in, whether it's dealing with a landowner over the counter, five minutes, 10 minutes here and there add up, and we don't have a sufficient tracking mechanism for them.

We did have 2,800 farm operations or farms reporting to Stats Canada in 1996. It's fair to say that a lot of those are very small operations. I think it's very important, and

I think the county thinks it's very important, that there be a very simplistic approach to nutrient management in terms of what the requirements are. We have some plans that are in three-inch-thick binders and they tend to be fairly complicated documents. The more complicated they are, the less readily they are followed, the less readily they are understood and the less readily they are monitored and enforced. So I think above all it has to be a very simplistic approach, but one which achieves the desired result.

1100

The Chair: I should go on to Ms Churley.

Ms Churley: Thank you for your presentation. I was just going to ask if the committee—or at least I, because I'm interested—could be provided with an example of what a typical nutrient management plan looks like. But now that you've said some of them are in three-inch-thick binders, I'm not so sure I want that. But it would be, I think, interesting to me to have a look at some examples of what you're having to deal with and the complexities of them.

You said that you don't see the nutrient management plans by themselves to be a total solution. We've heard from a couple of people—in particular, a lawyer who's been dealing with this issue—that it's not in fact going to deal with the really serious concerns that caused us to move more quickly forward on this at all. She's suggesting that it's complex, but that some form of EA process needs to be put in place, that the nutrient plans by themselves are important, but that is not going to resolve the issues and problems before us.

Mr Hanley: I guess where we're coming from is that it's great to have the plan, but if the plan sits on the shelf and collects dust and isn't implemented in the daily practice of that particular farming operation, we're getting no closer to the solution. So simply preparing the plan and having it approved is only a part of the solution. There is that ongoing monitoring and the dedication and the commitment to it from the farm community members. That's more what we were getting at rather than a broader process.

Ms Churley: I see. OK. We can follow up later on that.

The Chair: I'll go on to Mr Johnson.

Mr Johnson: Because I know you, if I can, Dave and Vince, I wanted to ask about page 6, item 9. You're talking about the "local committees to assist in the nutrient management process." I assume that's the peer review committee that you have implemented and are using.

Mr Hanley: Yes, it is.

Mr Johnson: And in your experience, is that working?

Mr Hanley: I think it works well, so far as it goes. When it was originally set up, the committee was comprised strictly of members of various commodity groups who were instrumental in the farming industry. There was no political involvement in the committee; very purposely we tried to avoid that. The one criticism that

some members of the public have over the committee is the fact that it is strictly farm community members. There needs to perhaps be some opening up to other public groups so that it is more of a blended approach.

Mr Johnson: OK, thanks. The only other thing was in section 12. You bring up a lot of questions—for instance, do we wait? Do we put things on hold? I assume that this legislation and the regulations will not be retroactive, so I would suggest that you do not put on hold any of your processes right now.

The Chair: Thank you, Mr Judge and Mr Hanley. We appreciate the presentation from Perth county.

Mr Judge: Thank you very much for giving us the opportunity. It's a very important issue.

The Chair: I would like to call forward our next delegation, the Bruce County Dairy Producers. I don't see the Bruce County Dairy Producers and—

Ms Churley: Mr Chair, I don't mean to be difficult here, because I know that you're a fair Chair. But I honestly do think—and we have a few minutes—PROTECT started on their presentation a bit late. I timed them as well, and I really do think they got short-changed. If we have a few minutes to actually bring them up and ask a question, it might be useful. I don't know if the committee agrees with me, but we do have a little extra time here.

Mr Johnson: I don't see a lot to be accomplished in that.

Ms Churley: It's just that they're the only group, as it turned out, that we didn't have an opportunity to question. They really did—I timed them as well—and I think because they came and talked to you, Mr Chair, for a couple of minutes that that would—

The Chair: I guess that maybe we should caution groups to make sure they distribute their documents ahead of time and it doesn't cut into time. I throw it out to the committee. We have a 15-minute gap that, by the end of the day, will disappear, I know that.

Mr Beaubien: We're starting a precedent. I think it's your ruling. You conduct the meeting as you see fit. We do have 25 or 26 presentations. If you're going to start a precedent, I'm sure that somebody else will ask for the same treatment somewhere else.

Mr Cooper: Mr Chairman, if I could just make a comment. I timed myself and I was up for 12 minutes and cut off. It's in fact been one of the shortest presentations here today. You've now extended the latest presentations to 16 minutes and the last one to 19 minutes. So whether I get up and answer questions or not, I simply want to protest, because as I say, you made a ruling and you cut me off. I didn't even get my full 15 minutes.

Mr Johnson: Mr Chairman, I move that we give Mr Cooper three more minutes.

Ms Churley: Thank you. I second that.

The Chair: All in favour of the motion? I would ask the committee to please be cognizant that we do have 25 presenters today. I would regret if someone gets short-changed at the end of the day.

PROTECT

The Chair: So we have three minutes for questions. We begin with the PCs.

Mr Johnson: We don't have any questions.

The Chair: OK, no questions? The Liberal Party?

Ms Churley: While he's preparing—

The Chair: I'll go to the NDP.

Ms Churley: I did have a question. I don't have your presentation in front of me now, but you made some interesting points. One of the issues we continually hear about—and we know there's a lot of controversy in the area—and I've heard from some of the farm groups, is that in fact there are problems with septic tanks among some of the cottagers. I suppose in some cases it's finger pointing, and we all do that when we're being accused of something on the other side, but I think it is a concern. Obviously it's not as huge a concern as with the big farms, but it's something that I'd like to ask you about. What needs to be done about that?

Mr Dave Cooper: Thank you for asking the question. When we did the original version of this proposal, it was too long. We had a section on septic systems, and it wasn't to point fingers. We recognize that septic systems, or septage, is a small portion, is very much smaller than the nutrients coming off of farm operations. Having said that, I am a member of the lakefront and a member of the Ashfield-Colborne Lakefront Association. We have started talking to the county. We feel strongly that there should be some form of legislation or something that promotes the idea within communities of mandatory septic re-inspection programs. There are very few of them in operation. They seem to be somewhat voluntary.

Frankly, the legislation deals with the spreading of septage, which, in the suggestion of treatment, is really focusing on the tip of the iceberg. It's those few owners who decide they've got proper septic systems and they're going to have them pumped out regularly and they're saying, "Now let's treat it." Frankly, the iceberg is all the septic systems that range anywhere from nothing to a steel tank in the ground with holes in it. Frankly, I live along the lakefront and we think it's wrong. We think we should be forced to bring them up to standard. We just left that out of the presentation because there was some debate about whether it was relevant to what the committee was focusing on.

Ms Churley: Thank you. I think it's something that we do need to be taking a look at, whether within this legislation or not, as part of the set of problems in this area.

Mr Cooper: Yes, I agree.

The Chair: We'll go around again to the PCs.

Mr Beaubien: In your point number seven, "swift resolution," you mention, "Unless some ultimate responsibility for environmental stewardship is centred on the owner, there will be too many opportunities to abdicate or contract away responsibility" and "point the finger" somewhere else. Now, you've heard the presentation by the Perth county representatives, whereby they have 106

nutrient management plans that take in about 6% of the land mass in Perth county. They talk about the paperwork and the intricacies of managing that. How do you plan on piggybacking this issue on the issue of managing the nutrient plans, if you're going to try to track down, basically, your time ownership with the plan itself—aren't you?

1110

Mr Cooper: They may or may not be related. I'll try to answer your question, but maybe not satisfactorily. What bothers me is that you have an owner, and there are a number of people involved in an operation. First of all, to build a barn, there are engineers, contractors, subcontractors, building inspectors—there's a whole host of people involved in putting up a facility. Then once you get to the point of actually spreading the stuff, you then subcontract to spreaders, and there are a lot of other people involved in that. What I've seen in one particular court case is a lot of this goes on, where you can't figure out who's responsible because they're all pointing to one another.

What I'm trying to do is suggest if I own an operation and I subcontract to somebody else, try somehow to attach some responsibility back to me that says I have to take some environmental stewardship of this operation, whether I'm contracting to other people or not. I'm making sure, then, that the person who's doing the spreading is monitoring the field tiles or is making sure they're not coming closer to areas than they should. It's my plan, and I have to have some responsibility for making sure the people that I contract to who are operating that plan take the responsibility properly. Otherwise, I could walk away and say, "I contracted it to him and it's his responsibility, not mine." I think there should be some responsibility attached to ownership. How you do that in law and legislation, I don't know. It's just that I think in principle owners should be held responsible for their operations.

Mr Peters: Mr Cooper, thank you very much for your presentation this morning. As an opening comment, in my previous life to provincial politics, I was a municipal politician on the north shore of Lake Erie. Every summer, the beaches were being posted, and fingers instinctively came to the city of St Thomas, with bypasses from our waste water plant. One of the things we did was study our watershed, and we quickly discovered we all had a collective responsibility for what we were doing to the water. It was the city, it was the septic systems, it was agriculture, it was boaters, a whole host of things. It's not proper for us to be pointing the finger. I think we do have to accept that responsibility.

My question to you is regarding the local advisory committees. I see that the advisory committee is going to play a very important role, once this legislation and the regulations are developed, in dealing with local issues. Could you describe to me how you would best see a local advisory committee made up?

Mr Cooper: Yes, and in fact I'm on an advisory committee in Southgate. I think the advisory committee

should have a mix of skills and backgrounds in it. I think there absolutely should be farmers in that community who have experience. I think there should be some people who maybe have a higher level of technical knowledge so that when you're reviewing a plan, you can look at it and say, "Here's a technical question." Often you'll find that the other members may not have that. Because this is trying to protect the environment, I think you probably want someone from a local conservation area. I think there should be someone from the general community who simply says, "I'm willing to go through the training, I'm willing to learn, I'm willing to try to understand. I won't always be up to speed with these other people, but I represent the average person in the community who could have concerns with this, because I live in this community, too." So I think it should be a diverse group of people.

The Chair: Thank you, Mr Cooper, on behalf of PROTECT.

Mr Cooper: Thanks for the additional time.

The Chair: I would check again for the Bruce County Dairy Producers.

MUNICIPALITY OF KINCARDINE

The Chair: Seeing no one present, it's now 11:15 and we're back on time again for the municipality of Kincardine. Thank you, sir. I'd ask you to identify yourself for Hansard. We have 15 minutes.

Mr Kenneth Craig: Thank you very much for allowing me this opportunity to speak to the provincial committee regarding nutrient management issues. My name is Kenneth Craig and I am a councillor with the municipality of Kincardine.

The municipality of Kincardine has just recently passed its updated version of the bylaw regulating livestock facilities and manure management. I believe there were copies handed out to you already. Though we believe that our peer review committee, which is a mix-and-match of rural and urban members with and without farming backgrounds, which had the lead role in the development of the regulating bylaw, has done an excellent job in covering a whole myriad of topics and possibilities within it, we'd like to focus our presentation on one issue only and that is the issue of monitoring the operation during the construction or expansion and in its subsequent operation.

Monitoring the success or failure of the new or expanded livestock facility in its efforts to comply with the guidelines laid out in its nutrient management plan obviously is vital. Positive compliance will ensure a defence of the operation in case a complaint is laid. On the other side, monitoring the negative compliance will ensure that remedial actions can be put into action quite quickly. With your permission, we'll just address those areas we have within our bylaw.

Page 6 deals with the site plan. Though it's not an ongoing monitoring process, the site plan and any hydrological studies at the start of the whole process

provide a very excellent baseline for future reference. Without that baseline of any operation, whether you are polluting or not, it is impossible to tell.

Page 7, section 3(3): regular inspections both during and subsequent to construction by local and/or provincial inspectors, if you want to put that name on them, provide everyone with more than just this one snapshot of the what the operation should be. Certainly there are other jurisdictions which make sure that inspections occur every two or three years—a drop-in inspection, "Ready or not, here I come."

Page 10, section 5(4.4): continual monitoring of a nutrient management plan itself or the renewal. Perth county alluded to its number that is coming up for renewal. In our bylaw we recommend every three years another monitoring of the plan or, should there be a change in ownership or a change in management, the plan itself is due for renewal and another monitoring. We have suggested that within the municipality of Kincardine it would be the peer review committee that is responsible for all those plan renewal monitors.

Page 11, section 5 talks about water samples and a continuous, regimented sampling program of owned or adjacent water supplies, not by yourself but by a qualified third party, protects both owner of the operation and neighbouring properties. It's certainly very important to keep up that monitoring process.

Page 11, section 5, and also on page 13, we talk about perimeter tile drains around the new or expanded facilities which have monitoring capabilities to address any seepage, whether into the ground supply or surface water, whatever. If you don't have those opportunities built into the system, then your monitoring capabilities are most inaccurate.

The threat of groundwater contamination by any farm operation, whether large or small, whether it's real or perceived, is an issue that must be addressed. The accountability of that threat needs to be addressed as well. We believe that a system of continuous monitoring by the owner or the municipality, whether that's an upper or lower tier, is essential in providing trends in water quality. It's only following these trends that farm owners can justify their farming operations or be held accountable for their mistakes.

I thank you for the time to present this. Now you're way ahead of schedule.

The Chair: Actually, we did begin on schedule with you and we have a little over three minutes for each party.

1120

Mr Peters: Thank you for your presentation. This legislation is intended to supersede this bylaw.

Mr Craig: Yes

Mr Peters: How is your council going to react, if, say within this bylaw, you went further than the provincial legislation is going and the regulations that are yet to be developed? What's the reaction going to be around the council table to say, "Look, we tried to be proactive as a municipality and put the best standards in place in this

bylaw, yet our bylaw doesn't necessarily conform with the provincial standards"? How do you react to that or what do you think should be done in a case like that?

Mr Craig: The municipality of Kincardine had a two-year moratorium on construction of intensive livestock facilities. The moratorium expired early in September, which is why our bylaw was introduced, and, as I said, it covered as much as we thought it should. Obviously, if the provincial government introduces legislation which does not come up to those standards and it supersedes ours, we can only do the best with what we have. That's what the consultation process is about and, God willing, it'll be good enough to cover the whole province. If not, then we'll talk to you again, no doubt about that.

Ms Churley: Were you involved in the earlier consultations that the government had before this committee hearing?

Mr Craig: Yes, we had a submission through our peer review committee, I believe.

Ms Churley: Just from what you understand of the bill before us—and you know that regulations are coming—what do you recommend to the committee, given that you have your own bylaw? Everything is up in the air. As you know, this bill doesn't have a lot of meat on it and the regulations will. I expect that with different jurisdictions and municipalities, some are going to have their own bylaws, some are stronger and some aren't, depending on the conditions within a jurisdiction which might be different from one in another part of the province. How does one deal with that? How does the province deal with that concept? On one hand you've got perhaps minimum standards legislation, but one size doesn't fit all.

Mr Craig: Certainly that's correct. The municipality of Kincardine has given the peer review committee, which is our local body, of course, quite a lot of authority in developing and assessing the nutrient plans that come in. Certainly, one recommendation is that each area, whether it be a county or a local municipality, should have some leeway that our own local boards can apply for permission to insert this into our bylaw to complement the provincial legislation and regulations; one sock does not fit the whole of Ontario. There needs to be some leeway within regions.

Mr Beaubien: Thank you very much for your presentation this morning. I asked the following question a couple of days ago in St Thomas to the leader of a county. I asked him how many municipalities in their county had sewage treatment plants and he told me 10. I asked him how many had tertiary treating facilities. He told me none. Does your community have a tertiary treating facility at your sewage treatment plant?

Mr Craig: I don't know. You'll have to tell me what that is before I can answer your question.

Mr Beaubien: When you treat sewage, you do have a primary and then you have a secondary system and then the tertiary system usually is the one that basically finalizes the treatment of human waste. Some communities will have sand filters and they'll treat their effluent

with ultraviolet to make sure that the effluent that gets out of the system is almost potable water.

My point is if municipalities do not have at least a tertiary system and we expect farmers to have nutrient plants so that we don't pollute the environment. I know in part of my former riding, there's a community with 65,000 to 70,000 people. Until a year ago, 65% of their sewage went untreated into the St Clair River. Yet we don't have a nutrient management plan for some of the municipalities to deal with this issue.

I do have mixed feelings that it's fine. I'm not saying that we have to pollute the environment, but sometimes I think that Ms Churley, as a former Minister of the Environment, would have some concerns about that.

Mr Murdoch: She never was the Minister of the Environment.

Mr Beaubien: Whatever.

Mr Murdoch: Consumer and commercial.

Mr Beaubien: Consumer and commercial; sorry about that.

Mr Craig: I believe that the municipality does not have tertiary treatment capabilities at the Kincardine plant. However, when our nutrient peer review committee was addressing this most recent bylaw, we tried desperately to make it capable for new and expanding operations to treat their manure before it went on the field. We asked government, we asked private people, we asked MOE, we asked public health, "Give us some standards. When is manure not manure any more? Tell us where it needs to be so the acceptable level of risk for spreading manure starts to fall." We could never find those numbers. Our committee desperately wanted to do that but there are no numbers.

The Chair: Thank you, Mr Craig. We appreciate that input on behalf of Kincardine.

Ms Churley: Mr Chair: just for the record, I was not the Minister of the Environment. I was the Minister of Consumer and Commercial Relations, but I want the committee to know that as that minister I did bring in the toughest leaking underground storage tank regulations in all of North America to protect our water system. Thank you for that opportunity to allow me to say that.

Mr Murdoch: Let's put it in on the record that she wanted to be Minister of the Environment.

Ms Churley: And one day will be.

The Chair: Our next delegation is the township of Ashfield-Colborne-Wawanosh.

Hon Helen Johns (Minister without Portfolio [Health and Long-Term Care]): Mr Chair, the Bruce County Dairy Producers just walked in the door.

The Chair: This is the price they pay.

TOWNSHIP OF ASHFIELD-COLBORNE- WAWANOSH

The Chair: Gentlemen, we would ask you to please give us your names for the Hansard recording, and then we have 15 minutes for your presentation.

Mr Doug Fines: I'm Doug Fines, councillor in Ashfield-Colborne-Wawanosh.

Mr Ben Van Diepenbeek: Ben Van Diepenbeek, reeve of Ashfield-Colborne-Wawanosh.

Mr Grant Anger: Grant Anger, chief building official for the township.

Mr Scott Tousaw: Scott Tousaw, county of Huron planner.

The Chair: Please proceed.

Mr Van Diepenbeek: Thank you again for the opportunity to address the standing committee on the very important issue of nutrient management. Obviously there's a lot of concern in the province. I think a lot of the concern is because of the intensity of the livestock industry and the way the expansion has been going.

The township of Ashfield-Colborne-Wawanosh, ACW, as I'll refer to it, is a newly amalgamated rural municipality with a permanent population of approximately 5,500 and a seasonal population along Lake Huron in the order of about 2,000. The local economy is based on agriculture, tourism—cottages and campgrounds—and small manufacturing companies. The increasing challenge is finding a balance between the expanding livestock sector and tourism.

The township congratulates the government for taking leadership in addressing nutrient management issues. Many of the areas covered by the bill have been requested for some time, such as clear standards for farm practices, nutrient management for all farms including the use of commercial fertilizers, better policing and enforcement, and legislative authority for more thorough reviews, such as groundwater protection.

ACW and other townships in Huron county have passed interim control bylaws to temporarily stop the construction of large livestock barns to provide time to establish appropriate regulations. ACW's interim control bylaw was upheld by a court but an appeal is outstanding.

1130

There are several areas that ACW would like to stress which need special attention given the magnitude of the livestock sector in this township and across Huron county and neighbouring counties. Attached to this submission are some of the findings of our recent interim control study on intensive livestock operations and manure management, and a set of recommended options.

The need for careful regulation is highlighted by the following facts: a new livestock barn came into production every 10 days, on average, in Huron county from 1996 to 2000; new/expanded barns from 1996 to 2000 added housing capacity for 58,000 animal units in Huron county, representing an average increase of about 26% of the total livestock units in the county; 72% of all livestock units added were for hogs and nearly all based on liquid manure systems; new large livestock barns have four to five times the number of animals per barn than the 1996 average; the Maitland River watershed has the highest concentration of manure production in all of Canada—according to Statistics Canada—10 times

higher than the average watershed with livestock in Canada.

Studies have identified nutrients and bacteria in the water of wells, tile drains, watercourses and beaches; potential sources include livestock manure, commercial fertilizer, septic systems and sewage treatment plants. Recent stream testing results are attached, with some alarming numbers. These problems exist even while the current density of livestock across ACW is at about one third livestock unit per improved acre of farmland. Add to this septic system effluent, septage and continued increases in the livestock sector and our local environment is at risk.

ACW intends to support agriculture and tourism while ensuring that environmental degradation does not occur. Our goal is to improve the health of our water, soil and air. In this light, the following suggestions are made for consideration in the act and its regulations:

Specific record-keeping is required, such as timing of manure application, spreading rates, and soil samples.

Vigilant policing is required to respond to complaints and spills in a timely fashion to ensure appropriate clean-up and fines, where warranted.

Funding is needed for farmers to upgrade facilities and to implement comprehensive nutrient management plans. Healthy Futures is an excellent program, but it will only begin to address the need. Fines should be allocated to a special fund available to farmers to make improvements.

Nutrient management plans should be required for new or expanded barns which tip over 100 livestock units. These new operations, even in smaller packages, represent intensive livestock operations.

A phase-in of regulations should occur without delay so that operations of all sizes are subject to the act. A slower phase-in could result in local bylaws remaining in effect for smaller operations, which are tougher than provincial regulations for larger operations, in areas such as land ownership requirements or groundwater studies.

Farming is a land-based activity. Livestock barns should be connected to an adequate land base that is owned and controlled by the producer. A minimum percentage of the required land base should be owned, such as 50%, or that number could be debated. Ownership helps to ensure the integration of manure application and crop rotation during optimal weather conditions.

Liquid manure is costly to transport. Requiring a maximum distance that the land base must be from the barn ensures that all of the land base will receive manure according to nutrient management plans. Too great a distance reduces the likelihood that nutrient management plans will be followed.

Nutrient management plans should require the incorporation of manure whenever crop rotation allows.

Adequate storage capacity provides flexibility to apply manure during the best conditions. Local livestock farmers have no quarrel with building 365-day storage. This should be a requirement.

The spreading rate is perhaps more important than the total volume spread per year. The nutrient management

plan should cap the spreading rate per application at a safe level.

Earthen lagoons for manure storage should be prohibited.

Building standards for barns and manure storages must be stringent, such as leak-proof joints and clay liners as a contingency. ACW's construction standards are attached.

Municipalities will need assistance to develop and implement a nutrient management strategy, especially where the rural municipality does not have a sewage treatment plant for septage.

Another concern I just put in here is, what will be the regulation for winter spreading of liquid manure on frozen ground?

In summary, growth of the livestock sector in this part of Ontario is unprecedented. Adequate regulations are needed to safeguard the environment. Under section 60 of the act, the superseding of a local bylaw by the regulations places the responsibility on the provincial government to establish regulations that meet the needs of specific areas such as ACW. Alternatively, ACW asks for the authority to establish bylaws to address local circumstances.

ACW requests that the legislation and regulations address the issues identified above, as well as take into account the 56 recommended options in the interim control study, the green booklet that the county produced earlier.

Thank you for the opportunity to address the standing committee.

The Chair: We appreciate your input. We have two minutes for questions from each party and we now, in rotation, go to the NDP.

Ms Churley: Thank you very much for your presentation. You've touched on an issue we're all concerned about and where some of us are on different sides, and that is the municipality being able to have some local control. I know under the right-to-farm act, or whatever it's called, there was an OMB case. A municipality made bylaws, it was challenged and the government took the side that the municipality couldn't do that. At the end of the day the OMB ruled—I don't know if you're familiar with this case—that the municipality could impose its own bylaws.

What I see happening here—and, granted, we don't have the regulations yet—is that the direction seems to be going toward this law superseding any municipal bylaw. Do you foresee, if that happens, that there could be court cases around that, given the kinds of issues and problems you've outlined in your jurisdiction, if you do not have the ability to protect the environment tailored to the particular issues and problems that exist in your area?

Mr Van Diepenbeek: I'll try to answer that. I guess what we've seen in our area over the past several years—three or four; in the last couple, anyway—is that we've been in court a couple of times now. We have the property owners, the farmers, doing a nutrient management plan and totally not following it. We have no way

of really enforcing the nutrient management plan. They were in clear violation of it. We've been to court with it and we were successful, but the municipality is still footing the bill for the legal expenses. I guess what the municipality needs is the regulations, for sure, the provincial support.

1140

Mr Fines: I'll just add that, with respect to the nutrient management plan, people aren't building these big barns in eastern Ontario, so we need a different set of regulations for this region than they're going to need in other parts of the province.

Ms Churley: If the bill goes in the direction of superseding municipal bylaws, I think you're suggesting that there needs to be some kind of mechanism so that it isn't a one-size-fits-all. There has to be a different set of rules somehow for different jurisdictions, depending on the local conditions in that area.

Mr Fines: There needs to be some kind of regional difference. If we don't have those rules, then we're going to be taking our member of Parliament to the area where the problem is and we're going to be saying, "You're responsible for this," and we're going to make sure that those members of Parliament are the ones who are—

Mr Peters: That's the MPPs.

Mr Fines: The MPPs are going to be blamed for this problem.

Mr Arnott: I see your presentation as being one of the most significant ones we'll be dealing with this morning because of the fact that you've had to deal with this issue for quite some time and you have some expertise to bring forward that we need to hear about. So I want to thank you very much for your presentation.

I want to go on the record again as supporting a provincial funding program to help farmers who need help in terms of upgrading their operations to meet new environmental expectations and standards. You've mentioned that and you talked about healthy futures. I've been very supportive of that program—it's benefited my riding in Waterloo-Wellington—and I've supported the efforts that our local county and regional staff have made.

You've got a good idea, I think, when you suggest that the fines should be allocated to a special fund available to farmers to make improvements. I think that's an excellent idea, but I would submit that the fines may not be enough to support the program. Obviously, the fines would supplement whatever funding the government would set aside. You would agree with that, I assume?

Mr Van Diepenbeek: Yes. You mentioned healthy futures. I think it's an excellent program. As I said, it's only going to begin to address the problems. We have had one review of applications. Our total allotment for Huron county was approximately \$2.5 million. I could see that easily going just into the septic systems upgrades. The majority have been septic systems upgrades that we have approved so far. Again, the CURB program was mentioned earlier—something similar to that; there are a lot of farmers who have small farms with cattle, for

instance, beef cows, barnyards that have no concrete or cement floors and walls, and containments of just dry manure. There needs to be money coming forward for some of that.

Mr Arnott: Should the available resources that are set aside for that be allocated on an as-needed basis to individual farmers or should it be universal, in your opinion? Should we be targeting the resources to those who need them most or should it be open-ended for everybody?

Mr Tousaw: That's probably more of a political question, but from the staff's standpoint, in seeing the applications coming forward for healthy futures, there are a substantial number of areas in need. I think what you have to do is balance the requirements. Because the Nutrient Management Act will mandate certain things, you need to look at a universal program for some of those aspects. For other things that the act won't get into, healthy futures and programs like that are very helpful in providing people with the incentive to do something they wouldn't otherwise do.

Mr Peters: Throughout the hearings we've heard lots of discussion about science and research and understanding this and that. This is the first time I've seen, anyway, the results of a stream testing program. I guess I'm looking for some advice from you as to what should be contained in the regulations. To me, this is important. We need to understand the water quality of a stream. Is this something that should be done so that we have a baseline, so that we start somewhere and we can get a snapshot of what's going on in the Maitland valley, what's going on in Kettle Creek, what's going on in Long Point? Is the stream testing program something you would recommend? Is it something that needs to be included as we develop the rules and regulations so we know where we're starting, so we can say, five years down the road, "Gosh, we've seen our counts rise here"? How important a component is this stream testing program?

Mr Van Diepenbeek: I think it's a very important part. You have to know where you are before you know where you're going. With the stream testing, I think there should be dollars available for the conservation authorities to initiate them. Also, Huron county has done a well water test and it shows where the wells are at this point. If we continue to have megafarms being built across this county, the water quality can only get worse unless we can manage the liquid manure in a fashionable manner.

We've discussed nutrient management plans as trying to satisfy a crop with manure. We feel that to try and satisfy a crop such as corn, which needs a lot of nutrients, you've got to put on way too many gallons per acre to satisfy that crop in one or two applications. So we feel, again, that liquid manure should be applied at a reasonable rate. You can debate that rate, I guess, depending on the soil, 3,000 or 4,000 gallons an acre or maybe more—some soils could possibly handle more—but we've got to take into account that a lot of the cash crop ground where

we spread this manure is all under-drained with tile. If we start putting on 10,000 or 15,000 gallons an acres, we're going to have it in our watercourse. There's no way around it.

The Chair: Thank you gentlemen. We appreciate your presentation before the standing committee.

THEDFORD-GRAND BEND VEGETABLE GROWERS' ASSOCIATION

The Chair: According to our agenda, the next group scheduled is the Thedford-Grand Bend Vegetable Growers' Association.

Before we proceed, we are set back 15 minutes now and the Bruce County Dairy Producers are here. We will hear them during the lunch break, so we'll reconvene at a quarter to 1.

We have 15 minutes, gentlemen. Would you identify yourselves and please proceed.

Mr John Smits: I'm John Smits from Grand Bend, representing the Thedford-Grand Bend Vegetable Growers. Along with me is John Vanderburgt, a consultant on soils, fertilizers and whatever.

The Thedford-Grand Bend Vegetable Growers' Association welcomes this opportunity to express its views relative to the Nutrient Management Act, 2001. Our association and the growers it represents are producers of onions, potatoes, carrots, celery, beets and cole crops in the marsh south of Grand Bend and surrounding area. The lands used to produce these crops are of variable soils and the organic matters differ greatly in the area of marshlands.

The producers are involved in integrated pest management programs and have also used the services of crop consultants to do soil sampling and to disseminate this information in relation to crops grown. The producers make these decisions on this information, along with research data provided to them.

It has been noted at the muck crops research and services committee that nutrient management be made the number one research priority. The scope to initiate this type of research and fund this program will be beyond our means in the vegetable sector. We are a unique area and the crops we produce are complex. We must be recognized as such and not become a victim of standards developed for others and then dumped upon us.

Our recommendations are:

(1) Any legislation developed should include flexible rules and regulations for continued vegetable production in this unique area, being muck soils.

(2) In developing a nutrient management strategy for muck soil, the burden lays with society, and the cost of the research and development of this strategy should be funded by all levels of government.

(3) Consultations should be ongoing with interested parties, and muck crops should be represented at these meetings via the muck crop research and services committee.

(4) The act should be built on an understanding of all commodities it will influence. It should not become the total burden for producers to maintain competitive production.

(5) The act should ensure that the information collected in a nutrient management plan remains reasonably private, to protect individual farming practices that may give the producer an economic advantage.

(6) The allocation of funds for research and education of resource personnel must be made available now to ensure the success described in this act.

In conclusion, realizing that our recommendations are directed specifically to muck soil, we fully support the position paper and document presented by the Ontario Fruit and Vegetable Growers' Association, our parent association.

Thank you for the consideration given to our association, enabling us to present our concerns to you.

1150

The Acting Chair (Mr Arnott): Thank you, gentlemen, for your presentation. We have just under three minutes per caucus. I turn first to the Conservative members.

Mr Beaubien: Gentlemen, thank you very much for your presentation this morning. Yesterday we had a presentation, as you mentioned in your paper, by the Ontario Fruit and Vegetable Growers' Association. They seem to be concerned about the biosecurity of farms dealing with fruit and vegetables. Do you share that concern with the parent association?

Mr John Vanderburgt: It depends on what you're talking about with biosecurity. We're concerned about people walking onto farms, especially into crop fields, and dealing with diseases and things of that nature, that they might be transmitted from other areas. But we're also concerned with the security of information that may go into producing some of these crops. There are some specialty crops that are grown in the Grand Bend-Thedford marsh area, and other areas also. One, for instance, is pickling onions. There are only a small number of growers that produce those crops. It's a very unique crop and the production practices are very unique in that respect. It would be a grave concern to those producers if they were made public through a nutrient management plan that's made available to everybody who gets hold of one. The competitive advantage they have right now may disappear. So it depends on what security—I think it relates to both.

Mr Beaubien: I was basically talking about the physical.

Mr Vanderburgt: There is a concern about people moving around in fields. If they're going to start testing soils and you've got somebody coming in and trying to determine whether that individual has been following his nutrient management plan by testing his soil outside of the normal testing parameters, yes, there is a concern.

Mr Beaubien: The second question, if I have time, Mr Chair—and I think you raised it—is with regard to the privacy issue; nutrient management plans being filed

and the public having access to them. You seem to have a major concern because of economic disadvantages that may be created if the plan is made public. How would you deal with that?

Mr Vanderburgt: How would we deal with—

Mr Beaubien: With the nutrient management plan, once it is filed.

Mr Vanderburgt: I would like to think that the basic information should be there, just an overview of what the producer is doing, but specific information as to exact cropping practices and nutrient levels that are being applied to the soils to produce these certain crops may be kept more secretive. Certain individuals may have access to them, but not just anybody who walks into the township office and asks for a copy, so that somebody can't come in and say, "How do we produce pickling onions?" or "How do we produce onions like John Smits?" and then they can just take a look at his nutrient management plan and they know exactly what his nutrient practices are—foliar or Drive application, whatever he does.

The Acting Chair: I'll now turn in rotation to the opposition parties.

Mr Peters: Again, as we've heard countless times, you raise research. Your number one priority is research. From a nutrient standpoint and a vegetable muck grower standpoint, are there nutrients that you wouldn't put on your fields for whatever reason? Is this part of the research where we need to understand pathogens or whatever may be contained in that nutrient, applying that on your field, and what leaches out of that and is then taken into the product? Is that the kind of thing we need to better understand, or do we already understand that? Do we know that if you put sewage sludge in the muck, it's not going to cause any problem?

Mr Vanderburgt: No, we don't know that. In fact, there's a real concern with that aspect of it because certain sludge contains heavy metals and some crops are very sensitive to heavy metals. Field crops are not as sensitive. Vegetable crops such as cole crops, red beets or celery are very sensitive to molybdenum, boron and things of that nature. A little bit too much boron and you won't have a crop; a little bit too much molybdenum and you won't have a crop. Cobalt is another heavy metal that's a real concern. So, yes, there's a concern. Those are items we know affect vegetables crops.

What I'm talking about with research is knowing how much nutrient is needed for a vegetable crop. We can't apply standards that might grow a field crop to growing a potato crop, an onion crop or a celery crop. The nutrients required for those crops are considerably different. Those standards have to be established by research, and documented, so that these farmers are not put at a disadvantage when all of a sudden their production is reduced because these standards have not been set but just taken out of a hat. There's some concern that there is no research done on these levels they're talking about. They just figured if they're good enough for corn or soybeans, they're good enough for anybody else, and that's not the case.

Ms Churley: Are you concerned that the new bill—and the regulations that will come forward dealing with the large, intensive farms and all different kinds of farms and land uses—will have an impact on your farm and your ability to farm because of the costs associated with it?

Mr Vanderburgt: I think the whole nutrient plan legislation is essential for agriculture today, there's no doubt about that, but you've got to realize that the legislation—the rules and regulations that you put in place—has to be a living document and it has to be flexible. There's no black and white in agriculture production. Decisions are made on a daily basis that change depending on what your circumstances are, what commodity prices are and what the weather is doing.

Yes, we're concerned. We're concerned that the legislation is going to brush large agriculture with one brush and it's just going to filter down to the small farmers. It's going to cost large producers a lot of money to maintain this nutrient management strategy and eventually it's going to cost the smaller producers, more than likely, similar kinds of money, and it's going to be reflected in their cost of production, which a lot of producers may not be able to handle.

Ms Churley: So it's going to be essential that your organization be involved in the drafting of the regulations.

Mr Vanderburgt: It's going to be essential that all commodity groups be involved in the drafting of the legislation and in making the rules and regulations. No commodities can be left out.

Ms Churley: I think we're hearing that loud and clear. Thank you.

The Chair: I wish to thank the Thedford-Grand Bend Vegetable Growers' Association. We appreciate your input to the standing committee.

The committee will now take a break for three quarters of an hour. We will reconvene at a quarter to 1.

The committee recessed from 1158 to 1246.

BRUCE COUNTY DAIRY PRODUCERS

The Chair: I wish to welcome people back to this afternoon's sitting of the standing committee on justice and social policy for Thursday, September 13, being held in Holmesville, Huron county. Continuing with our agenda, we can now allocate 15 minutes to the Bruce County Dairy Producers

Mr Jan Prehn: My name is Jan Prehn. I'm from Bruce county representing the dairy producers. In our county, there are 280 producers currently. I just have a few comments to make. I don't have a big written presentation. The Dairy Farmers of Ontario will make a presentation on the 17th in Kemptville, as you probably know. We as a committee fully support the DFO in every aspect of their presentation, hopefully.

I would personally like to see everyone included in the nutrient management legislation, such as homeowners, for one thing, and the cash crop industry, since the

cropping industry is also applying large amounts of nutrients. The homeowners are not required to have any legislation for the application of commercial fertilizers to their soil. If you talk to the fertilizer industry, the homeowner is a large percentage of their customers. There's a very high potential for over-application because there are no guidelines or rules and regulations.

Also, all livestock operations should be included, large and small, because it's not always the large operators that are the polluters. Many large operations have been forced to become good nutrient managers since the public has been watching them very closely. At the same time, many small producers need to make improvements in their manure-handling facilities, Mennonite and Amish communities. If the committee has ever travelled in the wintertime around the Kitchener-Waterloo area, you'll see that there are many nice streams of runoff potentially going into the waterways, since the farms are perched high on a hill.

So personally, sometimes I'm quite offended, being a large operator myself. I milk 170 dairy cows on 700 acres of land, and I'm always approached as being large and as higher potential. But I watch my butt because I have to, to make sure there's no potential pollution getting into the waterways. We have grown bigger since we used to milk half as many cows about 10 years ago. As we've grown, with every step we've improved our potential runoff sources. Everything has been contained and stored in earth and in a lagoon and spread at appropriate times for less potential of runoff. So I'm quite often offended by people saying large operators are the worst ones, because I see many neighbours where the milk house water is not collected. It goes into drains. I know many properties in our township have no septic system existing. They're hooked up to drains. Those issues are sometimes not addressed, but everyone is pointing fingers at large operations.

One other point that I'd like to make is that it's very important that the small producers especially will have to have funding available for improvements. If you don't provide funding to smaller producers that haven't the capability to produce cash flow to pay for these improvements, they will be forced to quit. And then, what is going to happen is a big operation will have to replace that source of food. That's what's happened over the many years.

1250

In the early 1980s and late 1970s, the farmer was being told, "If you're not getting better, more efficient, more productive, you're out of the marketplace." At that time, the government wasn't standing around saying, "Here, listen, we'd like to have the 100-acre farm maintain a diverse farming operation." So now what has happened is poop has literally hit the fan because now we have megabarns, bigger barns and everybody's saying, "Whoa, now there's all this pollution."

I personally think the pollution has been going on for many years, if not worse before, because I know as a fact we used to spread liquid manure in the wintertime

because our facilities weren't designed to hold it. Now we apply it at proper times.

I live right at a lakefront community and there's a big fuss going on about all this liquid manure. If it's managed properly, it's no different than the guy milking 20 cows around the corner and all his yard runoff is still running into the waterways today. Everybody is pointing at the big farmer. There are many small hog producers who are bigger polluters than one of these bigger megabarns.

Also, as I said, I think society is more responsible for all this happening because of the cheap food policy that's been enacted in North America for many years. I come from Europe where subsidies are being paid for farmers to be stewards of the land, where the small family farm is encouraged to flourish, especially in the mountainous regions.

I think this bill is long overdue and I'm glad something is finally being done. When I left 22 years ago, in Germany there were stricter laws there than we have yet today. It's been long overdue and I'm glad the government is finally doing something to improve it. As I said, funding and enforcement are very important. Thank you.

The Chair: Fine, thank you, sir. We can allocate three minutes for questions. We'll begin with the Liberal Party.

Mr Peters: Thanks very much for your presentation. It's kind of hard; we're getting this glare from this window behind you.

Mr Prehn: I'm not bald, am I?

Mr Peters: No, it's not you.

A couple of questions from your perspective in the dairy business, one example being talking about storage and having long-term storage. I know one livestock operator who sells 80% of the manure. It goes to a company which creates a compost and sells it. I'm concerned about what happens if, all of a sudden, he loses his contract to sell that.

The second scenario is, let's say you don't have the land base, but you've contracted land to spread manure on. Suddenly, you get into a squabble with the owner of that land and he says, "I'm revoking that contract." What do we do, or what do you suggest happens? Does that mean that you have to cut back your production of what you're doing? How do we deal with that, where somebody is contracting out, either spreading it or selling it, and that contract is lost?

Mr Prehn: You've got to remember that there are many, many farmers. The farming community nowadays is specialized farming, right? You have cash crop farmers who buy their nutrients. Then you also have the livestock operations that are strictly livestock. I know, particularly in our area, I'm surrounded by cash crop farmers. Every time we haul out this stinky, gooeey mess, I have lots of people saying, "Hey, I'd like to take some of this for free." I think in all of Ontario you'll never have problems getting rid of the manure.

The farming cycle at one point in time was that the 100-acre farm used to generate its own fertilizer and just

export meat and grains. Now we've gone to an industry where you have grain producers who buy commercial chemical fertilizers, dump them on the ground and then they sell some grain products to the hog producer, who in turn again turns the grain into meat and then sells the meat and has the manure to dispose of.

A lot of these manure problems that are existing, or these so-called megabarns, I don't think are a real issue at all. If the industry would work together, especially in some of these townships where there have been many people who are cash crop-based farmers, they should get together with these livestock producers and say, "Let's make a long-term contract. I won't be polluting the soil with any commercial fertilizers."

Manure is an asset. Many people look at manure as a liability. It's not. For us, it's the great thing. We've cut our commercial fertilizer bills to less than half since we used to have more cropping and less animal production. You're actually making yourself money. It's not a liability for us at all. It's the greatest thing on our farm because it's a natural cycle.

You talk to organic producers; they can tell you more about natural cycles. I'm not an organic producer, but we can all learn from that.

We've got to spread the manure around. Large megabarns aren't a problem if the manure is shared properly. It would do a lot of cash crop farmers' land a lot of good to receive some of this manure. The thinner you spread it on the soil, it doesn't matter if I have 10,000 hogs or 1,000 hogs, once it's spread out evenly over a certain amount of acreage then it's not a pollutant. There's no legislation for enforcement to say you can only spread so much, and nobody enforces it. We have laws now that nobody enforces. The issue of a contract—if you have a contract, sure, it should be binding. If you can tell me of a cash-crop farmer that won't take manure, I'd like to talk to him because I think they're very, very few and far between.

Ms Churley: You said you had come from Europe, from Germany. I can't remember—I can't find my notes in front of me—but I understand there are some European countries and some parts of the US—I think North Carolina—that had to put a moratorium on the large intensive farms.

Mr Prehn: Right. Holland is one of them.

Ms Churley: Holland, that's right. You probably know more about this than I do. I guess my question is, do you see jurisdictions having to put a limit on how many of those big, intensive livestock farms that the land can actually carry?

Mr Prehn: North Carolina is the extreme, where you have hundreds of thousands of hogs concentrated. I don't think that's a good idea either, because then the disposal of manure becomes a problem. What has happened in Holland is people would actually have a manure quota and oil tankers would take it back to the deserts of Morocco and stuff like that. East Germany would receive a lot of it. You'd go through Germany and there would be manure trucks hauling Dutch manure into East Germany, and that was a fact.

I think right now the big issue in this whole province is the hog farms, that's my personal feeling. It's not a nutrient issue; I think personally, it's more of a smell issue, really. I'd like to make that point. In Germany where I grew up, over history, in every town the size of Clinton there'd be five or six farms right in town, from hog producers to dairy producers. What has happened over time is when people were exposed to the smell—and it's still being done today—the municipalities would buy them out to get rid of them. "If you don't like the smell you have to buy me out." I think the greatest thing the province could do is buy out all the hog farmers and dairy farmers, if they smell, and we could make it all into one green golf course, right?

Ms Churley: No, not golf courses.

Mr Prehn: No, no. A green landscape, and we could buy all our food from the United States of America. I think everybody would be happy. There would be no nutrient smell, no stink, no nothing and we'd all have our food. Someday the Americans might turn off the tap and say, "Hey, you Canadians, are you hungry? Come and get it."

All I'm saying is that's the way it's being done in Europe. If they don't like the smell, you're bought out. I live right by the lakeshore community and I've told some lakeshore residents, "Hey, I'd be glad. Give me five million bucks and you can have my farm and put a golf course in there." That's the way it's done in Europe. Go ahead and do it. If you have the money to do it, I'd be more than willing to do it and I can go play golf in Florida, maybe.

The Chair: Turning now, we'll rotate to the PCs.

Mr Johnson: Yes—and I believe it's Jan?

Mr Prehn: Yes.

Mr Johnson: Thanks very much for feeling that this is important enough to take your time to come and present to us.

Mr Prehn: I appreciate it.

Mr Johnson: I did have one question, but it's something we have to decide in coming to decisions on what's in regulations and what isn't. You said that you have an earthen liquid storage now. I guess one of the problems I have with that—I don't think that's inherently bad, but we have had presenters who feel that even the cement ones have to be engineered so there is no possibility of a leak. I guess I'm wondering how do we ensure that there's no leaking from an earthen containment?

1300

Mr Prehn: In 1993 we bought our earthen lagoon. At that time in Europe, it was illegal. You have to have liners there right now to build an earthen storage, which I question, too—there's a possibility of fracture when you're stirring up the manure. But in 1993 we were going to build this manure storage so we didn't have to pump in the wintertime any more, and my brother and I looked at each other and said, "Is this OK?" So, we phoned the University of Guelph and we asked, "Is this OK, to dig a whole in the ground and pump manure into it?" They said, "It seals itself when there's manure in it. The only

time it may leak is if it dries out completely. You get cracking and it could leak." We've tested our water regularly on our farm—the well is within 200 metres of the lagoon—and we've never had a positive sample of E coli, our neighbours don't have positive samples of E coli in their wells, so I don't know. If it's leaking, I hope to fix it.

I know one dairy producer who put in a lagoon and he was forced to put clay in there as a liner because the sandy-based soil type was too thin; it would not carry the manure properly. Everything has to be done properly with common sense. That's my opinion.

The Chair: I want to thank the Bruce County Dairy Producers for coming before the committee.

Mr Prehn: Thanks for the opportunity. Have a good day.

HURON COUNTY WHEAT COMMITTEE

The Chair: I wish to call forward our next delegation, the Huron County Wheat Committee. Good afternoon, sir. If you wish to have a chair, I'll ask you to give us your name for the Hansard recording. We have 15 minutes.

Mr Neil Stapelton: Thank you, Mr Chairman. My name is Neil Stapelton and I'm representing the Huron County Wheat Committee this afternoon. As wheat producers, we are not creators of manure, but many wheat producers are mixed farmers and have manure in their operations as well. Here are my comments.

Farmers are a part of the countryside and are as interested in a healthy and clean environment as the rest of society. At the same time, we recognize the need for gradual growth and expansion and improvements in efficiency to ensure the financial stability of our farms into the future. We agree this must be accomplished without polluting the environment.

In the Nutrient Management Act, 2001, Part II, standards and regulations are discussed but nothing concrete is set out. The Huron county wheat producers request input at the stage where the actual standards are determined. In the media, we read many emotional statements concerning nutrient management. We'd hope that standards should be developed based on science-based and field-tested solutions.

The Huron county wheat producers request research funds be directed toward better solutions with respect to matching applied nutrients with the nutrient requirements of growing crops and other related problems.

The Huron county wheat producers were happy that standards and enforcement are to be applied uniformly across Ontario. In the explanatory notes to the Nutrient Management Act, 2001, it states that local committees can be formed to assist in matters specified by the regulations, such as the mediation of disputes. We support this approach and feel it would be effective in solving problems before they become more serious.

Penalties are necessary to enforce the standards. We would recommend a window of time after passage of the

act to allow for the education of farmers to the requirements of the act. Recognition should also be made for events out of a farmer's control, such as a huge rainfall event.

The capital cost of changes that may have to be made to farm operations to comply with the regulations are a concern to farmers. These costs cannot be passed on to the marketplace by farmers. We note that Quebec and some neighbouring American states provide financial assistance for improvements to their operations which benefit the environment. We request that provision be made for financial assistance for Ontario farmers for similar improvements to their operations. Huron county wheat producers are opposed to fees being charged to farmers to meet the requirements of this legislation. A clean environment benefits the whole society and inspection fees should be borne by all.

Thank you very much for giving me this opportunity to present our comments to the committee.

The Chair: That gives us four or five minutes. My math—I'm not used to having all this extra time. We'll begin with Ms Churley.

Ms Churley: Actually, I don't think I have any questions. I appreciate your comments. You've hit the themes that many other farmers have hit, particularly around funding and the need to make sure that if you have to comply with these rules, you need the funding to make sure it happens.

Mr Stapelton: Yes, my comments were prepared in consultation with the soybean producers in the county and the corn producers in the county.

Ms Churley: Thank you, I appreciate it.

The Chair: Questions on the PC side?

Mr Beaubien: Thank you for your presentation. When we're talking about funding, what form of funding do you think the farm community is expecting? Is it in the form of tax credits, grants, loans? Could you be specific, or have you got any ideas as to what you're looking for?

Mr Stapelton: Some of this manure injection equipment etc is quite expensive. I would say a tax, like rapid depreciation of our grant, would be appropriate for those sorts of larger investments.

Mr Beaubien: OK, thank you.

The Chair: In rotation we'll go to Mr Peters.

Mr Peters: You raised the issue from your perspective, from the wheat producers' perspective, of the need for a science-based look and a field-study look at nutrients. As it stands right now, if the dairy farmer who just made a presentation were to come to you and say, "I'd like to contract with you to spread my manure on your land," right now, without having that comfort level of the science-based field-tested research being done, are you going to say, "Sure, I'll enter into a five-year contract with you"? Or do you feel that you're not comfortable enough because these field studies haven't been done?

I'd like to expand on it, because it's really been a common theme that has come through, this need to

understand what we're applying to the soil. From your level as a wheat producer, if he comes to you, what are you going to do?

Mr Stapelton: You've asked a number of questions there. One, yes, I would be very happy to get his manure. In fact, on my own operation, I have had livestock for a number of years, and we're thinking of discontinuing the livestock this year. On this, then, I'd be very happy to get liquid manure. When I mention science-based solutions, I feel that already exists. I don't feel we need a lot of additional science on this, but if we apply the manure according to a nutrient management plan, like not over-applying the nutrients breaker and taking soil tests to make sure you don't get too many highs and excesses, that's enough science to satisfy me.

So yes, I'd be glad to accept his manure. I think the science is already there. When I made that comment, I was thinking of a few things I read in the media. For example, north of here, a municipality was thinking of bringing in nutrient management bylaws, and one of the suggestions made in the paper was no liquid manure. I thought to myself, "That's an outlandish statement. Someone is making it up without doing much research or thinking or study." I felt that was emotion-based rather than good practical science.

The Chair: Thank you, Mr Stapelton. I appreciate the input from the Huron County Wheat Committee.

Mr Stapelton: Thank you very much.

HURON COUNTY SOYBEANS

The Chair: Going down the agenda, Huron County Soybeans. They were here earlier.

Hon Mrs Johns: Yes, they're here.

The Chair: Oh, I didn't see you there. We have 15 minutes, sir. We'll ask you to give us your name for the Hansard recording.

Mr Bob Hallam: I'm Bob Hallam. I thank you, Mr Chairman, for this opportunity to make this presentation. We in soybeans support this, but we have concerns about the lack of details at this present time. We still look forward to working with you to come up with the final policy.

Soybeans has put a presentation in to you, so I'll avoid putting more paper to you. Some of the concerns are, if we are certified, let us make it part of our spray course to cut out the duplication and extra time.

OMAFRA has a great deal to do with this. They have the requirements for crops grown on certain levels of nutrients. They should clarify this. There's a lot of research done by the soybean people, and it should be done. Our nutrient management has to be kept simple and practical. Our land's like a bank account: we put in and we take out. We realize the level. So the research in OMAFRA has that responsibility. It does record electronic format. This is not acceptable. We have no problems of keeping it on file for inspection. Even under the landfill and the municipalities, there are certain things kept sacred and confidential.

1310

The Lieutenant Governor can give an order in council. I still hope that they will consult the farm groups and have it scientifically based, not on political problems.

I would have problems if you charged the farmer for the inspection. We are innocent until proven guilty, and it is the responsibility of society, even as a police officer comes questioning you. It would not be acceptable to charge us for that.

I have page 24. It is pretty vague—"injury or damage ... to ... property or ... plant ... life." That is left up to a lot of interpretation, and the list from 1 to 7 is very vague. You would have to have more specification in your legislation and laws before we would know where we stood on that.

I have problems with banning the septic on farmlands. We use it quite diligently. I don't do it personally. But the big problem I think the government is having is the timing that is put on. I told the minister at one time you can't go by the calendar; you have to go by ground conditions, and OMAFRA is going with the calendar. You see ruts put in the field when they're applying that and that is not proper. The ground conditions must be proper. I have no problem with MOE doing the testing, but OMAFRA should put the guidelines in when it's being applied, with the proper timing.

Funding for research and enforcement is very important. We expect the same treatment as the urbans. If you're going to support the urbans in their septic, we deserve the same.

I have problems with the bypasses and high water levels; it is not acceptable. We are taking the blame. Even in nutrients from the landfill, government has to take a bigger responsibility in recycling. That is not a criticism of this government; in past government it's the same. Our landfills are being filled up with material and it's our agricultural land that you're using. Building materials and household waste could be composted. We are not doing a very good job.

I have problems, and I guess maybe the farm community has not done a good job when you hear of untreated liquid manure being applied to land. Nature treats the manure. I've heard problems that one size doesn't fit all. Your nutrient management has to have the flexibility to cover this.

I've heard a lot of statistics. I don't have much faith in the statistics of animal units. They don't give you animal units that are taken out.

Earth manure: I sat on the municipal council at one time. OMAFRA had certain standards, and they have to meet, certain standards. You're allowing earth lagoons for municipalities. If that's acceptable, it should be acceptable for agriculture under certain standards. I believe that if we work together, the urban and rural, instead of pointing fingers, agriculture can be a big help in cleaning up the environment, because we can handle the waste. Instead of dumping it in our streams, we can use it for irrigation, whatever. There is a problem out there and we're all guilty.

I'm ready for questions, Mr Chair.

The Chair: We have just under three minutes for questions, and we begin with the NDP.

Ms Churley: Thank you very much. I certainly agree, and I think we all do, with your comment that we're not doing a very good job handling our solid waste. We do put all kinds of things in the landfill that shouldn't be going in there, and that's another thing we're trying to grapple with.

There are all kinds of new technologies out there; anaerobic digesters, for instance. I don't know if you've heard of that, but ways to take the wet waste and turn it into compost. I believe that's what you're talking about, that the agricultural community can and should be involved in all of these things, but there's no mechanism for you to be able to do that.

Mr Hallam: I'm also talking about building materials of asphalt shingles, Styrofoam. That can be all recycled. Don't they have the responsibility of putting it in? The municipalities are placed with the responsibility after it's placed there—tires. We ran into that for years, but my concern is don't overreact and don't overregulate, because governments in the past have overregulated—and the tires are a good example—and it caused pollution for a long time in doing it. I would recommend to you not to overreact on this but work with us. We can do a lot more working together, and you have the support of the farm community. I'm not just making that statement on behalf of the soybean growers, because I know we have the support of a lot of the groups.

Ms Churley: Hopefully when the government gets to the regulation stage and consultations that's what will happen; everybody will be able to work together and come to a solution that everybody can live with.

Mr Beaubien: Thank you very much for your very impressive presentation. I agree with you that when we're talking about solid waste we're not doing a very good job. I don't want to point fingers at anybody, but I know in my riding we have probably 100 garbage trucks a day that go down Highway 402. We export it out, yet we're still stuck on the blue box. Don't get me wrong. I think the blue box is a good starting point, but we can't seem to get out of that bloody box any more and look at the new technologies that are available to deal with the waste stream in a much more cost-effective and efficient manner. But that's another subject.

I want to go back to one of the issues that you talked about with regard to certification and education. I don't know whether you mentioned the education process, but you certainly mentioned the certification when it deals with the waste stream itself or dealing with the spreading of manure. How do you think it should be handled? Should people be licensed to deal with this issue? How do you feel as an organization?

Mr Hallam: I guess going back to the spray, I'll go back quite a while. I opposed it at the start because I felt we'd have to redo it and redo it. I was assured we would only have to do it once, but I'm on my fourth term pretty soon on it. I think it has helped in the spray industry. I've

been told they're not finding chemicals in the water now as they were before. It has made people more knowledgeable. Unfortunately it has taken some people out of spraying their own, too, so it's a pretty tough balance. But I think if you keep it practical, people could do it, and do it with your spray course. We've got a lot of time, but don't tie us up with a lot of red tape, because this bill is for the environment, not for consultants, lawyers or engineers. It's for the environment. We have to have a little bit of that.

1320

But farmers have done a good job overall. What you hear about is the odd bad apple, and we have that in any industry. But keep it simple. I think maybe something like a spray course would be sufficient to educate people.

The Chair: There's time for another question.

Mr Beaubien: Have I got time?

The Chair: For a quick one, yes.

Mr Beaubien: A quick one. When we talk about Bill 81, the provincial legislation, do you think there should be ways and means for the municipal legislation to override the provincial legislation at times?

Mr Hallam: My concern about enforcement is that the MOE says they can direct an order. I have no problem with them directing an order to stop, but two heads are better than one. It's the farmer's business. The farmer should have input in how the problem is solved, along with whom he wants to hire, before the other order is issued for the correction. I have seen some very bad orders that were not very practical. We've got to keep it cost-efficient to the farmer as a consideration. So consider OMAFRA and the farmer in the solution before that second order goes. I sit on a peer group and we have solved a lot of problems. I prefer to do it without confrontation and by working with them. MOE can sit in on this problem, but OMAFRA should be a big part of it because they have the background.

Mr Peters: Thanks, Bob, for your presentation and for a number of good points. I think a good one to reiterate is the point you made about how you can't go by the calendar, that you've got to look at the conditions that exist in different parts of the province, because it's different here from what it's going to be in the sand of south Malahide township in my riding of Elgin county to getting up into the Barrie area. I think you raise a very good point there.

The question I have of you—and this is more of you as a farmer—and I'm going to scope this around the spreading of municipal sludge. There are companies out there that have contracts with municipalities and are going out and trying to find contracts to spread municipal sludge. Do you think that as a farmer yourself you would fully understand what you're about to put on your field? Where are you going as a farmer? If you're going to give it some thought and think, "Well, jeez, here's an opportunity to add some nutrients. This company that's coming at me has got a wonderful brochure which says all these wonderful things about it and it's got all these endorsements on the back from OMAFRA and MOE and the

Ministry of Health and everything." Where are you going to turn, as a farmer, to find out, "Should I do this or should I not do this?"

Mr Hallam: I would check the analysis of it and have some agronomist check it out to make sure. I hope the MOE is approving these analyses. I hope to see the stamp of the MOE on that. If the nutrients are there—yes, there's some heavy, but with my soil test and what I need from my protector crops, I would have no problem once I've done it. You're right; they'll have roses growing on the brochures, but we've been around and farmers understand a lot of the thought on nutrients. We have consultants with our suppliers and they're in the business of selling fertilizer, so it kind of cramps theirs, too. On the other hand, I have trouble with too many long-term contracts.

You have to be careful with regulations on contracts. I have done that personally with a hog farmer, but it was just word of mouth. If you get too tied up with contracts, you're going to lose a lot of land base for these nutrients. I rent land. If I lose it, I've got to get some more. That's the responsibility of the landowner and that's the responsibility of the operator, to have those nutrients. If he loses part of his nutrient plan, there's the other part.

You've got to keep it simple and not tie us up with lawyers and stuff. I wouldn't tie my land up, personally, on a long-term base unless there's an out, because there are positives and negatives on the manure. You've got compaction, you've got weed seeds. I paid for potash and phosphorus value on it. OMAFRA has the guidelines on the nutrients that are in that manure. Yes, it will vary a little bit.

There was a presentation here today. You can't track it very far, but there is a lot of new legislation and research coming out. If you over-regulate, you're going to cramp that research. That's my fear to you.

The Chair: On behalf of the committee, we want to thank you, Mr Hallam, for speaking on behalf of Huron County Soybeans.

Mr Hallam: I appreciate this opportunity and look forward to working with the groups at a later time.

HURON COUNTY CORN PRODUCERS ASSOCIATION

The Chair: The next group to come forward is the Huron County Corn Producers Association. Good afternoon, sir. You have 15 minutes. If you wish to give us your name for Hansard.

Mr Evert Ridder: My name is Evert Ridder. I am chairman of the Huron County Corn Producers. The Huron County Corn Producers thank you for the opportunity to comment on the Nutrient Management Act, 2001.

Huron county supports responsible nutrient management planning and believes that there should be clear and consistent standards throughout Ontario. We are pleased to see that the draft legislation adopts many of the

recommendations proposed by the farm groups in earlier stakeholder consultations.

While this draft legislation outlines the framework of how nutrient management legislation will work, no details of regulations are established as yet. We strongly recommend continued consultation with the farm community so that effective and practical nutrient management practice guidelines can be developed that will keep Ontario agriculture competitive with surrounding jurisdictions.

Huron county supports the emphasis on science-based nutrient management practices. However, there are still gaps in technical knowledge that need more research. We recommend that OMAFRA and MOE direct additional funding and resources toward research to fill these gaps. We do not believe that manufacturers of fertilizer should be funding this research.

Huron County Corn Producers does not want to see a complicated record-keeping system which adds to our costs of production that the marketplace will not repay because of our open-border competition.

Financial assistance should be provided for farmers to help offset the increased costs involved in meeting enhanced regulatory requirements. Surrounding jurisdictions such as Quebec, New York and Pennsylvania provide financial assistance to farmers for improvements to their operations which benefit the environment. Quebec provides funding of approximately 70% of the cost of improvements to manure storage and handling. Ontario has no assistance in this area. Protection of Ontario's environment and a safe water supply benefits all Ontario residents and the costs should be shared by all as well, rather than be borne by Ontario farmers alone.

Farmers should not be required to pay inspection fees to meet agricultural standards imposed by the province. A healthy environment is for the benefit of the public good and measures taken to improve that environment should be paid for by all of society. Unlike other industries, farmers are unable to pass on their costs through the marketplace.

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We again thank you for the opportunity to address this committee and we'd like to stress again and again the importance of further consultation in establishing the regulations, so that the farm community is not regulated out of business.

The Acting Chair (Mr Doug Arnott): Thanks for your presentation, Mr Ridder. There's time for questions from committee members. I'd look first to the government side.

Mr Johnson: Mr Ridder, thanks very much for being here. You were helping out this morning too, I think, but it's good to see you taking your time to contribute to our recognition of the thing.

You made two points: one was that farmers can't pass along their increase in costs or inputs or whatever, because they can't pass that along to the marketplace. Why?

Mr Ridder: Part of the problem is that farmers are price takers. Our input costs are forced upon us, we cannot do much about that. You might do a little bit, but not a whole lot. The marketplace is regulated by the Chicago Board of Trade quite often, and that is beyond our control. We have to take what the market offers. For instance, if you want to sell your corn for \$150 a tonne and the marketplace can supply it for \$120, nobody's going to buy our corn.

Mr Johnson: OK. It wasn't only for my own benefit that I asked you that, because we all have different backgrounds. I think that's all I wanted.

Mr Peters: Mr Ridder, thank you very much for your presentation. A couple of questions I'd like to ask you: looking at your Huron County Corn Producers Association, what would the percentage be that are strictly corn producers and what percentage would have a mixed operation?

Mr Ridder: I do believe that the majority have a mixed operation. There are some that are strictly cash crop, but there are also quite a few that have part live-stock, and the livestock part is again value added to the corn producers.

Mr Peters: From your perspective in dealing with nutrients and applying nutrients to a field, how do you feel about it?

Mr Ridder: If you look at the overall nutrients that are applied in Huron county, if it comes to manure, then we are well below the average that is recommended by OMAFRA.

Mr Peters: So you're saying you could be applying more nutrients?

Mr Ridder: In the county, we could be applying a lot more nutrients if it's managed right. If the cash croppers and the livestock operators work together and regulate the application over the whole workable area, then there's room for expansion in the livestock industry.

Ms Churley: Do you believe that the provincial legislation should override any municipal bylaws?

Mr Ridder: What we currently have in Huron county is that some municipalities adopt bylaws on petitions from people based on emotions, not on scientific grounds. Then you get that one municipality that wants a nutrient management plan at 100 livestock units, the next 150, one wants 100% land ownership, the other 50% and the other 25%. There's too much variance, and across the municipality lines there is competition.

Ms Churley: How do you see the role of communities, then, in having a say? I understand and have heard a lot about all the issues on both sides, but on the other hand—and I admit, I don't live here, I'm just going by the letters I've received and the phone calls I get on both sides—there are some legitimate issues as well around closed beaches, in some cases some bad apples, the too many large intensive ewe farms, and that sort of thing, which may be different from another jurisdiction in Ontario that doesn't have the same soil, the same tourist areas, all of that. How, then, would you recommend to us that we would deal with that issue so that the community

and the local council would be able to have some say in the land use?

Mr Ridder: In one way I look at it this way: if land is zoned agricultural, then agriculture should be able to operate there. We are faced with issues where people who live in cottages here for a couple of months a year seem to be able to dictate what we can do to make a living. That's what I have a problem with. The farm community is getting less and less voice, yet they own a large percentage of the land.

Ms Churley: So you don't think they should have a say at all, then, in that?

Mr Ridder: I don't say they shouldn't have a say, but the urban community should not restrict the farming operations at a cost to their operation.

Ms Churley: Unless there are some environmental or other legitimate reasons why.

Mr Ridder: If there's a legitimate environmental reason and a cost a farmer cannot recover, then society as a whole should help finance that.

Ms Churley: OK. Thank you.

The Acting Chair: Thank you very much, Mr Ridder, for your presentation. We appreciate your input.

MUNICIPALITY OF WEST PERTH

The Acting Chair: I'd like to call forward next the Municipality of West Perth, Mayor John Van Bakel. Welcome to the standing committee on justice and social policy.

Mr John Van Bakel: Thank you, Mr Chairman. Welcome to the presentation from West Perth. I congratulate the government for going this far on bringing the nutrient management legislation to the forefront.

My name is John Van Bakel and, together with my wife, I have raised our family and continue to operate a beef and cash crop farm in West Perth. Our deputy mayor, Barb McLean, is with me today. They reside on a dairy farm in West Perth. Together, Barb and I are members of county council, and as such we're part of the nutrient management legislation that we have in Perth county. We adhere to it in West Perth. We also sat on the county council that endorsed the presentation that was made by Perth county this morning.

I've been on municipal council for 16 years and presently hold the position of Mayor of West Perth. I am here today to make this short presentation both as a farmer and on behalf of the municipality, and thank you for the opportunity to do so.

We, again, congratulate the provincial government on bringing forth the long-awaited nutrient management guidelines. We speak for a municipality that is predominantly agricultural, with many livestock operations that use modern technology and modern environmentally sound farming methods. West Perth also operates a modern sewage facility in the ward of Mitchell.

We realize that there are many facets under consideration during these consultations. However, we will emphasize what we consider to be the most important piece in

this whole issue of environmental impact as it relates to agriculture: the ability to address land ownership and site limitations.

We are an amalgamated municipality of three former townships and one former town. One of the items on our agenda after amalgamation was to consolidate our zoning bylaws, resulting in the passing of bylaw 100-1998. This bylaw included section 6.6, which dealt proactively with the issue of expanding livestock operations and their relation to our infrastructure and environment. Our bylaw requires 30% land ownership and sets a limit of 600 animal units on a particular site.

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In recent years, the livestock industry has seen an influx of farmers with vast financial resources establishing operations in our municipality, sometimes eliminating some or all existing buildings on the site in order to build all-new facilities. This point is relevant when discussing whether MDS, under a nutrient management plan, can address all concerns. In isolated cases, if MDS becomes an impediment by itself, if resources allow, the operator will simply buy and remove the restrictions, thus removing one more family farm from our municipal infrastructure. I would add that at the present time there are few, if any, livestock operations in West Perth over 600 animal units.

Our bylaw was appealed to the OMB, it was heard by the OMB in about five days of sessions last spring and approved by the OMB. The OMB decision was subsequently appealed to a lower Divisional Court by a livestock operator and this appeal is still outstanding. We have included a copy of the OMB decision, and I would just refer to page 16 of the OMB decision and the bottom paragraph, which captures our feeling. This is the board's wording:

"It is clear to the board, the large factory farms concerning the municipality and other witnesses present from further afield, are a new phenomenon on the agricultural landscape and they bring new problems and risks that citizens are now turning to municipal councils and the provincial government for guidance. The municipality needs and in the board's opinion, now has the planning tools available to regulate these large-scale operations."

Allowing site expansion beyond a reasonable level presents unacceptable pollution potential possibilities in our municipality. Pollution possibilities exist at the present smaller sites. However, these dangers will be increased in direct proportion to the increase in site size.

The number of livestock units on a particular site should be balanced in a reasonable way to the manure disposal requirements of the livestock on that site without unreasonable exposure to road travel and its inherent dangers.

To visualize the extreme of two or three large operators in each rural ward controlling all the livestock production by operating one very large livestock operation site is not acceptable. Such operations exist in less populated areas of North America—the western prov-

inces and some US states—and even those sites, although many miles removed from any conflicting uses, are raising concerns in their respective areas. These massive operations are not compatible with either our environment or our ratepayers.

On the issue of land ownership, we believe that a portion of the land required for manure disposal should be owned and thereby under the full control of the livestock owner. A regulation requiring a percentage of land ownership can be enforced through the building permit application process. We have some serious misgivings about the enforcement aspect of availability of unowned land.

The former Minister of Agriculture, Ernie Hardeman, when discussing our bylaw with me, stated his concern that some municipalities might use this ability to limit animal units per site too restrictively. In response to this concern we would accept and encourage government consultation and direction on parameters. We feel very strongly that site limitations should be part of any rural infrastructure. For many reasons, as the OMB agrees, it simply doesn't make sense to allow unlimited expansion on any one particular site.

Without some regulation addressing this aspect of nutrient production, rural municipalities will face an ever-increasing number of delegations opposing large livestock barns, because rural people as well as urban people are losing faith in the willingness and/or ability of government, whether municipal or provincial, to deal with the rapidly increasing size of livestock barns.

We believe that the forthcoming nutrient management plan legislation could deal with site limitations and land ownership in a number of ways, and we would support any option that deals with the issue in a balanced approach.

The legislation could simply remain silent on the issue, thereby considering this issue as separate from nutrient management and allowing it to be dealt with under other legislation. Our legislation was considered under the Planning Act.

Enabling legislation to allow local municipalities to address local concerns is by far the most desired venue because of (1) the ability to address local conditions and (2) the ability to enforce the guidelines through the building permit process. Enabling legislation at the county or regional level would also be appropriate and could be enforced through the local building permit process. The ability to address local concerns would be somewhat diminished because of varying conditions.

Watershed-wide legislation to limit livestock concentration on a watershed basis has appeal, especially on the water quality issues. However, it would be very difficult to say to one farmer, "You can have livestock," or "You can't." Site limitations on a watershed basis could be effective. However, we have some concerns that local issues such as road construction and quality of life would be compromised.

Province-wide legislation to limit animal units per site could be included in the new nutrient management plan

legislation. However, we feel local conditions vary significantly within the province and therefore one set of guidelines would be ineffective at best.

There have been many suggestions that issues relating to land ownership requirements can be addressed through MDS regulations. However, MDS rules, as we know them, apply to buildings, not manure disposal.

We agree that manure systems should have a relationship to land ownership. Liquid manure systems require different management than dry systems. Liquid manure systems definitely should have a certain land ownership requirement unless a specific manure disposal licence—for example, composting or extrusion—be in place. Dry manure systems could have different requirements.

Some other comments on this nutrient management legislation: Many of the proposed regulations on municipal biosolids are already practised, and we agree with an updated nutrient management plan for biosolids as it would promote public knowledge and support. We also would suggest an outright ban on the spreading of biosolids during winter months.

If the spreading of raw sewage will be prohibited within a certain time frame—and we have no objection to this—then the ability of all sewage treatment plants to accept raw sewage would be a step in the right direction. Sewage treatment plants have no basic responsibility to provide this service as, they were designed and constructed to service only urban serviced areas. Therefore, a provincial construction funding program to adapt these facilities would be appropriate.

Nutrient management plan approval criteria should be more open and defined so that the public knows what the basis of a nutrient management plan contains. For example, as a general rule of thumb, for every animal unit a nutrient management plan requires one available acre. Yet we have heard of nutrient management plans approved by OMAFRA at half these requirements simply because the farmer said he couldn't find more land. This does not lead to public confidence in the approval process.

Peer review committees are a good idea—we have one in Perth county and we're very familiar with it—as long as the process is followed as set out. We have some concern that one or two members become the committee. Leave the appointment of members to these committees at the county or regional level. Provincial appointees are usually out of touch and politically motivated.

As farmers and local councillors, we are eager to work with the provincial government to keep our rural landscape and water clean and safe. We will work toward guidelines that allow us as farmers to operate efficiently and in tune with the environment and we don't believe that these regulations need to be financially significant.

In conclusion, local municipalities are facing new provincial water regulations, whether a system has six users or 6,000, that have an astronomical price tag attached, all in the name of protecting the environment and water quality.

We believe that a balance between necessity and overkill by putting the same regulations in place across the province has been compromised. We hope the same mistake can be avoided in the design of the nutrient management plan legislation and therefore respectfully make a strong request that any guidelines regarding land ownership and site limitations be vested with the local municipality.

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I thank you for your time and attention and wish you good luck in your deliberations.

The Acting Chair: Thank you very much. I'll allow one quick question from each caucus. Turning to the official opposition, Mr Peters.

Mr Peters: An interesting point right off the bat is that your bylaw requires 30% land ownership. I just did a quick skim of Kincardine and there's 25% land ownership. It's going to be interesting what we do down the road. If 30% is the standard, then are we going to go retroactive and say to the people in Kincardine, "You've got to get to 30%"? It would be interesting to review some other bylaws.

If land ownership is required for farmers—and in your case 30% land ownership sets the limits—what would you do with the municipality? A number of municipalities operate a waste water treatment plant. Say it comes time to clean the plant out and you want to spread the biosolids, are you saying the municipality has to own 30% of the land? Do you follow me? If a municipality is going to spread its sludge someplace, do the same rules apply to the municipality that they have to own 30% of the land they're going to spread? It's maybe a bit hypothetical, but it's very real, if you were to interpret your own bylaw and apply it to yourself, Your Worship.

Mr Van Bakel: Right. On the first point of land ownership, our council has no problem with province-wide guidelines on land ownership, because it's irrelevant of topography or whatever conditions you might apply. If there's 30% or 50% or whatever, I think that can be province-wide or area-wide.

On the issue of the biosolids, biosolids are under a very strict guideline by MOE now. The land has to be tested. They have some very strict guidelines and very few people are aware that there are a good number of guidelines they must follow. We don't disagree with that at all, but farmers have to be signed up. It has to be on file with MOE and all that sort of stuff. I think those guidelines are in place, which I would never suggest that we apply to farmers or farm manure, because it's impractical. But the guidelines need to be there for MOE and our sewage treatment plants. I agree with them and I think they should be more open so that people know there are guidelines in place and know what they are.

Ms Churley: I'll try to be quick. I have a lot of questions from your presentation. I think the one I'll stick to, though, is who should be in charge here? That's come up a lot and there are disagreements on it. In my view, from what we've heard, most of the farm community, but not all, really want to make sure that it's handled by the

province. You and some others have made the case that municipalities should have some say in what happens in their land base and usage. Would you support some way of minimum standards in this bill put forward by the province so that nobody could go below these minimum standards but that municipalities have the opportunity, working with the community, to improve on those minimum standards?

Mr Van Bakel: I think that's a fairly good position that we would support. We don't believe we should be involved in a lot of the guideline discussions. I think the local municipality would like to have control over certain site limitations, because we feel that whether that is part of legislation now, it will be part of legislation 10 years from now, but 10 years from now might be a little late to address it. We like to think we're proactive in this, rather than reactive.

The Acting Chair: To the government side, are there any questions?

Mr Johnson: John, I'm glad you're here. You're kind of a lone beacon out there.

Mr Van Bakel: Well, I'm a lesser light.

Mr Johnson: Yes, I know, and I'm glad to see that—

Mr Van Bakel: They're shining.

Mr Johnson: I refer to the site limitation and what might be called caps and things like that. I didn't want you to think that just because it may be lonely position, you should ever reconsider. Sometimes we need that to guide us. So I'd like to compliment you on that.

At the bottom of page 2, you were saying that the spreading of human waste—septage, if we can use that—on land is going to be prohibited under the act. In the context of pathogens and those things that may pass through the body, whether it be a cattle beast, a hog or a person, in connection with that, what is the difference between spreading raw septage on the land and raw liquid manure?

Mr Van Bakel: For one thing—and I'm not a scientist or an expert—I believe there are pathogens in liquid human waste that are inherently more dangerous to the human population than animal waste. I'm not an expert in that but I'll take that as stated by other agencies or whatever. So if that were to be removed from putting on the land, and thereby the ability to actually go directly into the streams, we don't have any objection. In fact, we're already considering modifications to our sewage treatment plant that would be able to handle this on a cost-recovery basis.

The Acting Chair: Thank you again for your presentation. We appreciate your advice.

MUNICIPALITY OF NORTH MIDDLESEX

The Acting Chair: I'd like to call forward now the municipality of North Middlesex. Good afternoon and welcome to the standing committee on justice and social policy. Could you please identify yourselves for the purposes of our Hansard record.

Mr Chuck Hall: I'm Chuck Hall. I'm the mayor of North Middlesex. I appreciate the opportunity to speak here today. I'm here with our municipal planner, Barbara Rosser. Basically, we'd like to put across the concerns that North Middlesex has in the Nutrient Management Act.

Our first concern is—and I'll just start here—we note that the draft legislation does not provide for a role for local municipalities in the approval of individual nutrient management plans. Given that the legislation does not provide for nutrient management strategies, as defined within part I thereof, by local municipalities and others, it would seem logical to also provide for municipal consultation prior to nutrient management or non-municipal nutrient management strategy approvals, where an approved municipal nutrient management system exists.

Therefore, we request for consideration a consultative role for local municipalities and, where a municipal nutrient management system has been approved, a requirement for compliance therewith in the approval of the nutrient management plans.

Secondly, we recognize that certain sections of the draft legislation are broadly worded so as to have application to the non-farm use of nutrients. However, we think that in light of specific references to farm operators, farmers and agricultural operations, a similar reference should be made to the inclusion of non-farm operators, non-farmers and non-agricultural operations. We suggest that this approach could be used at a minimum within subsections 5(1)(a), (b) and (c), and 5(2)(a), (b) and (c) of the proposed act.

Thirdly, in particular we are of the view that the implementing regulations for this act should also specifically apply to non-farmers and non-agricultural operations where qualifications, education, training and certification are concerned. This would relate to sections 5(2)(b) and (c). This is because we believe that non-farm and particularly residential applications of nutrients can be inappropriately heavy and can occur with little knowledge of appropriate procedure.

Concern number 4: it is the view of this highly agricultural municipality, which North Middlesex is, that matters relating to septic disposal are appropriately the responsibility of the Ministry of the Environment. However, it will be essential that the provincial ministry responsible for this legislation has some knowledge of the agricultural industry, given the primary focus upon agricultural operations. Therefore, we submit that the Ministry of Agriculture, Food and Rural Affairs is the most appropriate provincial ministry to administer this legislation. Failing that, our view is that a formal consultative role in the approval of nutrient management plans and nutrient management systems should be incorporated for OMAFRA as a component of this legislation.

Concern number 5: as a rural municipality, North Middlesex is charged with the responsibility for maintenance of many unpaved roads which require periodic dust control measures. Due to environmental concerns,

many materials can no longer be used for this purpose. It is our opinion that either the definition of "nutrient" utilized in the act or the implementing regulations should specify that local municipalities are exempt from this legislation in the application of material for this purpose so long as the material is approved by the Ministry of the Environment under its mandate.

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(6) We wish to request participation by rural municipalities in the development of the implementing regulations for this legislation.

Those are our concerns from North Middlesex.

The Acting Chair: Thank you very much for your presentation. We have some time for questions from committee members. I would turn first to the New Democrats.

Ms Churley: Thank you very much for your presentation. In point 2, you mention, "in light of specific reference to 'farm' operators, 'farmers' and 'agricultural' operations that similar reference should be made to the inclusion of 'non-farm' operators, 'non-farmers'" etc. Could you expand on that? I assume you're meaning, for instance, golf courses and other land uses that use applications, pesticides or whatever. Is that what you're talking about here?

Ms Barbara Rosser: That would be correct. We think the references that we've cited could be made less agriculturally specific and rather have application to all uses or all practices that relate to nutrient management.

Ms Churley: What is your opinion on who should be in charge of the legislation? Should it be the province, as has been put forward by the legislation to date and by many particularly in the farm community? Although some municipalities are very clear that they want to have some control of their own land use.

Ms Rosser: I believe the view of North Middlesex is that this matter would be appropriately dealt with by the province in order to achieve consistency among the municipalities and among the different parts of the province.

Ms Churley: One of my concerns—and others have mentioned it—is that one size doesn't fit all, that you have different types of soil and different land uses in different areas and that trying to apply the law equally will cause problems in some areas. I take it you don't think so in your jurisdiction.

Ms Rosser: It would be my suggestion that, first of all, in finalizing the legislation and developing the regulations, nutrient management plans should be appropriate for the area that they're dealing with, such as local soil conditions, local drainage patterns and the like.

Ms Churley: So there would be flexibility within the—

Ms Rosser: Absolutely there should be flexibility to meet local conditions.

Mr Beaubien: Thank you very much for your presentation this afternoon. In point 3 of your presentation you seem to support qualifications, education, training

and certification of people applying the effluent on the land, am I correct?

Ms Rosser: That's correct.

Mr Beaubien: I think a lot of people are probably of the same opinion. However, a couple of days ago we had a presentation made by the Middlesex Federation of Agriculture, I think it was in St Thomas. Under clauses 5(2)(b) and (c) the legislation—and I'm quoting from the text as presented by the Middlesex Federation of Agriculture—"requires farmers and those operating equipment to meet qualifications and pass prescribed examinations. Our response: this is overkill. This act will require more farm work in a busy spring period and it should be sufficient that the farm manager be licensed." Any comment, because you are from Middlesex?

Ms Rosser: If I could answer that question, on the council for North Middlesex there is representation from the farm community. I believe there are three councillors who are full-time farmers. The input we received from them was that where the application of nutrients to land is concerned, they all have to be qualified in order to do that. They feel it is quite appropriate for anyone applying nutrients to be similarly qualified and that it would not be sufficient for only the farm manager to have that qualification or certification. So the input we received was not that that would be onerous.

Mr Beaubien: But as a municipality, you have a fair amount of farmland. Let's say the legislation were to allow this, does that create some municipal concern that the farm manager would be the only person who would be licensed and anybody else under their jurisdiction would be able to do the spraying and the application?

Ms Rosser: Yes, absolutely, it would create some concern. The view of council was that all persons who are doing the application should be qualified to do the application. Similarly, their view was that that should extend to non-farmers as well, that other persons who do application of nutrients should be qualified. So the answer to your question would be yes, that would be a concern.

Mr Peters: I just wondered if you could clarify. I think I know what you're getting to in number 5. I'm assuming you're talking calcium, road salt in the winter, things like that.

Mr Hall: Yes.

Mr Peters: We know we're just dealing with the framework of the legislation here. We know the devil is in the details of the regulations. We've consistently heard input from day one, as you have pointed out here, on the development of those regulations. Could you express to the committee how you would see municipal input into the development of regulations? Is it like we're doing right now, where you would want the government to come up with a draft, a framework, and we circulate it and travel around in a travelling road show to get input like this? How do you envision municipal input in the development of those regulations?

Ms Rosser: If I may, I think it would be appropriate for there to be a drafting of the regulations and

circulation, as you describe. When it came to the actual logistics of input, it would probably be helpful if it took place in more of a working committee format, where it would be more a matter of going through each of the regulations and determining what made sense or what didn't make sense. I think in that respect it would probably be more appropriate to have a working committee type of format, a little bit smaller group perhaps. But I think it's important that municipalities do have some input and that it be done in a meaningful way.

The Acting Chair: Thank you very much for your presentation.

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CHRISTIAN FARMERS ASSOCIATION OF HURON

The Acting Chair: Next I would like to call forward the Christian Farmers Association of Huron, if they're present. Welcome to the standing committee on justice and social policy dealing with Bill 81.

Mr Gary Haak: My name is Gary Haak. I'm the president of the Christian Farmers Association of Huron.

I'd like to note that these concerns that I'm making right now are in addition to the concerns to be brought forward later on by the CFFO.

Support in principle: the Christian Farmers Association of Huron would like to thank the government for this initiative to "set out a comprehensive and integrated approach to all land-applied materials containing nutrients to ensure that they will be managed in a sustainable, beneficial manner which results in environmental protection and public confidence in future agricultural and rural development." That's a quote I took from the newspaper made by Agriculture Minister Coburn. However, there are a number of concerns that we wish to address concerning this proposed legislation.

(a) We have concerns that the legislation will be applied in a graduated manner using livestock units as the scale for determining the timing of compliance and the level of compliance required by farmers. We, as the Christian farmers of Huron, strongly agree with the need for a graduated approach since smaller farms will have a harder time recovering some of the costs incurred by the pending legislation. However, we prefer an integrated system of graduation based on risk. Risk of pollution will vary between farms with similar total livestock units specifically because of differing types of livestock and whether it is dry or liquid manure. It is our understanding that the livestock unit system was developed based on the weight of the animal—or livestock densities—in question with no regard to the pollution risk posed by the manure produced by that animal.

(b) Another concern is that this act will govern the disposal, storage and transportation of dead animals. Will this replace the Ontario Dead Animal Disposal Act?

Under the Ontario Dead Animal Disposal Act, producers are liable for a fine of not more than \$2,000. However, under the proposed legislation, producers are

liable for a fine of not more than \$5,000 for each day or part of a day for which the offence occurs or continues for a first conviction, and \$10,000 for each day or part of a day for which the offence occurs or continues under subsequent convictions.

It is our position that if dead stock disposal is to be included in this act, penalties should be administered differently than for nutrient management violations and that the whole issue of dead stock disposal needs to be looked at again.

Currently, renderers will not pick up carcasses from sheep, goats, deer or elk, or carcasses from pigs, cattle and dairy that have drug residues. Therefore, most livestock producers are disposing some, if not all, of their own animal mortalities. Under the ODADA, it is illegal to compost carcasses in manure piles, yet that is primarily what is happening in some circumstances. Therefore, even under current legislation, most Ontario producers are at the moment liable for fines. Some small abattoirs will no longer slaughter sheep, goats, deer or elk because renderers will not pick up material contaminated with offal from these species.

(c) Inspection without warrant: It is our position that the only time that a "provincial officer may, without warrant or court order, enter and inspect land or premises of an agricultural operation regulated under this act"—and that is a quote from that act—is when there is a risk of damages occurring beyond the premises or property of the agricultural operation in question. In all other circumstances a court order or warrant should be required.

The reason for our stand on this is to protect agricultural operators from abuse by overzealous provincial officers. Court orders may be obtained within a matter of hours and if a provincial officer repeatedly asks for court orders without getting convictions, the judge will keep him accountable. As a rule, most farmers are very co-operative anyway and if a provincial officer asks to be able to inspect an operation, they will willingly oblige.

(d) In regards to implementation of this act, it is our understanding that large agricultural operations will be asked to comply first, and then medium and then small, and finally municipalities. We encourage the government to require compliance more in line with the risk involved, ie, most municipalities produce more effluent than small or medium-sized operations and therefore pose more of a risk to the environment and the population in general. Our concern is that once the government is finished with enforcement of all the classes of agricultural operations, there will be little political will left to deal with municipal waste disposal problems.

As the Christian Farmers Association of Huron, we recognize that the Ontario government has a huge task in hand as they ensure that land-applied nutrients are managed in a way that results in environmental protection and public confidence in future agricultural and rural development. We commend the government on this initiative. It is our hope that the Ontario government will set forth legislation that is practical in nature and that will not hinder the growth of Ontario's diverse agricultural industry. Thank you.

The Acting Chair: Thank you, Mr Haak. We have some time for questions from members of the committee. I would look first to the government members.

Mr Murdoch: A couple of things that you didn't mention here: I just wonder what you think about enforcement. Would you rather see OMAFRA enforcing these regulations or the Ministry of the Environment?

Mr Haak: That's an issue that has come up for discussion on a number of occasions. I think most farmers and most farm organizations agree that OMAFRA is a lot more farmer-friendly, at least in the past, with the records.

Mr Murdoch: A lot of different organizations have expressed one or the other, so I just wondered, when you didn't mention that, if you had an opinion on it.

Mr Haak: They talk in the act about peer review groups and we definitely would like OMAFRA to be involved in that.

Mr Murdoch: The other question that's come up quite frequently is should a farmer have to own all the land that they're going to spread their nutrient on or would you allow to rent properties? Some suggest that maybe the farmer has to own all the land for a nutrient plan to be put on it; other people suggest that he could rent some, and there's been 25% or 30% ownership. That's been thrown around, but I just wondered if you had a view on that.

Mr Haak: I know that I can count on my hand quickly the number of operators that just have poultry, for instance, and no land, but they have agreements. Even within our group there's really no consensus on that. I don't know if you're going to get any. I think, generally, as long as there are long-term agreements that the nutrients are disposed of in a wise manner, we can forgo some of the land ownership restrictions.

Mr Peters: Thanks very much for your presentation today, Gary. There's been a lot to learn and a lot to understand with this whole process, and "science" and "research" are words that come up over and over again. I'm trying to understand your concern (a) and the last part of it, "with no regard to the pollution risk posed by the manure produced by that animal." I guess what I'm curious about, are you trying to say here that there's good manure and bad manure? I'm not trying to be smart; I'm trying to be serious. If that's how I'm interpreting this, good manure, bad manure, is there a science that you base this concern on?

Mr Haak: I point out two different things. There's the difference in livestock. I know the sheep producers' manure is not nearly as volatile as pork or chicken or even beef and dairy, and a lot of that has to do with the way the livestock are fed. I know the sheep tend to be mostly forage-based, hay, in their diet. If you compare that, for instance, to a dairy herd, they tend to feed them a lot of grain and so the concentration of nutrients in the manure will vary between livestock species. I think that everybody in the agricultural industry will agree that liquid manure versus solid manure—in solid manure a lot of the nutrients are tied up just because of the carbon

base, whereas the liquid manure is spread on the land and it has to find the carbon to tie it up for the organic matter. Does that answer your question?

1420

Mr Peters: I guess we need to understand the differences between the animals.

Mr Haak: I agree.

Ms Churley: Are your members mostly small family farms or is it mixed?

Mr Haak: No, it's mixed. We have some larger producers.

Ms Churley: So you have some of the large producers as well.

I wanted to ask you a little bit more about the Ontario Disposal of Dead Animals Act. I think that's the first time, in my knowledge—I haven't been at all the meetings—that this has been raised. What you say here causes me some concern, and I'm not quite sure that what you're recommending we do at this point. You're suggesting that there's a problem that exists right now. What are you suggesting should be done about that?

Mr Haak: What we're saying is that there is a problem with dead livestock disposal, and I think it was fairly clear in what I put down. I know there are sheep and lamb producers—and it's not necessarily just the smaller ones. When you're in the middle of lambing in the middle of winter and it's minus 25 degrees, it's storming outside and you've got these dead lambs, you're not going to go dig a hole in the ground to get rid of them. Quite often, if you can find your compost heap underneath all the snow—it's a problem—what will happen is the carcasses of the dead lambs will just end up in the manure pile.

I guess what I'm saying is that the Nutrient Management Act, as proposed, with potential fines set out—they're two different issues. I would like the government to handle the dead animal issue, but take a good, hard look at it to make sure they aren't throwing cannonballs at something.

Ms Churley: I understand. Thank you.

The Acting Chair: Thank you again, Mr Haak, for your presentation and for your advice. We appreciate it.

MAITLAND VALLEY CONSERVATION AUTHORITY

The Acting Chair: I would next like to call forward the Maitland Valley Conservation Authority. Good afternoon. Welcome to the standing committee on justice and social policy. Could you please identify yourselves for the purposes of our Hansard record?

Ms Alison Lobb: My name is Alison Lobb. I'm chair of the Maitland Valley Conservation Authority.

Mr Phil Beard: My name is Phil Beard and I'm the general manager with the Maitland Valley Conservation Authority.

The Acting Chair: Welcome.

Ms Lobb: My name is Alison Lobb, chair of the Maitland Valley Conservation Authority. One of our key

objectives is to work with landowners, community groups and municipalities to protect and restore clean water and healthy rivers throughout the Maitland and Nine Mile watersheds. We are here today to talk about our experiences with nutrient management and how Bill 81 can help us achieve our objectives of clean water and healthy rivers.

Bill 81 addresses one component of protecting surface and groundwater resources from agricultural impacts: nutrients. Agriculture also contributes other contaminants to water such as sediment, pesticides and pathogens. The Maitland Valley Conservation Authority would strongly recommend that the provincial government develop a water policy framework in order to address the protection and restoration of water resources throughout the province. The Nutrient Management Act is one tool in a provincial water policy framework. In the absence of this framework, our focus is to identify ways in which the act and subsequent regulations should be developed in order to protect water resources from agricultural impacts.

Over the past few years, there is no single issue that has been more controversial or hotly debated by the public, farmers and municipal councils in the Maitland watershed than nutrient management and intensive livestock operations. According to a recent report completed by Huron county, a new intensive livestock operation or expansion of 100 animal units or more is constructed at an average of every 10 days. Over 350 livestock operations have been constructed over the past five years in Huron county.

The public is asking what impact will these operations have on our groundwater and rivers? The standard answer is that if best management practices are followed, there should not be any detrimental impacts. Unfortunately, this response is not good enough to satisfy the concerns of the public, especially considering some of the events that have happened in our watershed related to intensive livestock facilities. We've already had a new livestock barn and storage facility develop cracks, which resulted in manure leaking into a municipal drain. Another incident involved the spreading of liquid manure in late fall, flowing onto an adjacent property and resulting in the contamination of a neighbour's well. Thirdly, a manure storage tank was being built in a swamp that drains into the Maitland River.

These are not the types of events that give the public any confidence that intensive livestock operations are good for the environment. People are beginning to realize that nutrient management plans can be purely an agromomic exercise. It is important that a water quality protection component be built into Bill 81.

The Maitland Valley Conservation Authority has been monitoring water quality in co-operation with the Ministry of the Environment for over 30 years. This year we've had one water sample that meets the recreational swimming guidelines for E coli. E coli counts rise dramatically when we sample the river after a rain. We've analyzed summer precipitation patterns over the past 10 years. Most of our summer rainfall is coming in the form of

thunderstorms. These precipitation events tend to be of short duration but high in intensity. This trend is expected to continue. These types of rainfall events tend to create a lot of surface runoff and result in a lot of soil, nutrients and pathogens being washed into our rivers and streams. Climate change will increase the potential for soil erosion and pollution to be washed into rivers and streams. There is a renewed need to focus on soil and water conservation in order to preserve our topsoil and protect our water quality.

We would recommend the following be incorporated into Bill 81 in order to protect water quality and encourage more conservation practices on the land:

(1) Applicants should be required to prepare a water quality protection plan for their operation. These plans would have a two-step process, much like environmental farm plans, except these plans would be public and would be required to be implemented. The first phase in the development of the plan would focus on identifying the potential risks of contamination to both surface and groundwater. The second phase would identify how these risks are going to be managed. The plan would outline the conservation methods that would have to be put in place to protect both surface and groundwater from being contaminated. The plan would have to be approved by the Ministry of the Environment. The water quality protection plan would need to be developed in concert with a nutrient management plan to ensure the two plans are compatible. Two municipalities in our watershed have already incorporated this requirement into their nutrient management bylaw. We have assisted them by developing generic terms of reference for preparing a water quality protection plan. A copy of the generic terms of reference is attached to this report.

(2) The density of livestock and the size and physical characteristics of the land base upon which the operation is situated must be incorporated into the definition of "intensive livestock." The use of the number of animal units alone is inadequate to describe an intensive livestock operation.

(3) On-site reviews of the nutrient management plan's implementation should be scheduled every two or three years. Soil testing should be a mandatory requirement on all livestock farms on an annual basis, and field sampling parameters should be established. Nutrient management plans are a good start as a responsible agronomic exercise, however, this is not a precise science as yet. Therefore, there is a need for field monitoring and adjustment to be done on a regular basis.

(4) The design standards for liquid manure storage facilities and barns should be upgraded to ensure that they are designed to prevent cracking and leaking.

(5) A county-wide or province-wide registry of lands under agreement to accept manure should be developed and made public.

(6) In the future, as technology develops, consideration should be given to requiring that all biological materials spread on the land, not just septage and biosolids, be treated to kill pathogens through aerobic or anaerobic decomposition processes. There has been a lot

of research on composting and the use of anaerobic digesters in other countries. The greatest potential for environmental impact appears to be from the use of untreated liquid manure.

(7) Third party review of nutrient management plans is essential. Staff from both the Ministry of Agriculture, Food and Rural Affairs and the Ministry of the Environment should review these plans, as well as the water quality protection plan, to ensure both agronomic and water quality criteria are met.

(8) All livestock operations and applicators of liquid manure should be licensed and a demerit point system instituted for environmental offences.

In closing, I would like to urge the committee to include representation from conservation authorities on any subcommittees that are established to develop the regulations that will be developed as part of the Nutrient Management Act. It is imperative that regulations are developed that will protect water quality throughout the province.

As well, care must be given to ensure the cost of implementing these regulations is shared fairly by all parties involved. For example, the implementation of regulations for treating all septage would require major upgrading to many municipal sewage treatment plants, capital outlays beyond the financial capability of most small rural municipalities. The province has both a duty and an obligation to protect and restore water resources throughout the province, and should be prepared to support these efforts with adequate funding for both agriculturalists and municipalities.

1430

The Chair: Thank you very much for that presentation. Each party would have a little over two minutes each. We can begin with the PCs.

Mr Murdoch: I'm just wondering, you said here all the upgrades that would take place. Who would pay for all the agriculture upgrades?

Ms Lobb: That's why I say there has to be care given, that it's shared.

Mr Murdoch: Yes, OK. So you do agree with that. Because I noticed "all livestock operations"—so you mean small beef operations as well as the liquid? It does say "all livestock operations and applicators of liquid manure should be licensed", so I'm assuming you're including everybody in that?

Ms Lobb: I would have thought it would apply more to intensive livestock facilities.

Mr Murdoch: I noticed it didn't say that here, and we talked about it around the table. There are some people who are in intensive livestock who think maybe it's not fair that they're the only ones who are pointed out. There's a variation. And the act does phase everything in, but I'm just wondering.

Ms Lobb: But we also made a comment about the definition of intensive livestock, that it shouldn't just be based on numbers.

Mr Murdoch: No, I understand that, too, but there are a lot of small operations out there, cattle operations, that just have dry manure.

Ms Lobb: Yes, and I would agree with that.

The Chair: We'll go to the Liberals.

Mr Peters: I have couple of questions, and I'll ask them both. On point number 3 you say, "soil testing should be a mandatory requirement on all livestock farms on an annual basis." My question on that would be what about a cash crop farm that is accepting nutrients from a livestock operation? Was it your intent that—

Ms Lobb: I would think that should be included as well.

Mr Peters: OK. On point number 8, when you talked about a demerit point system being instituted for environmental offences, if you were to pursue the demerit point system for environmental offences and you had a repeat offender, and it got to the point where he didn't have any points left, what are you saying, that the livestock operation, if that's what it is, be shut down?

Ms Lobb: I guess the example I would have had in my mind would be of someone who is a custom liquid manure operator, and if he had a certain number of demerit points, he would not have his licence any more.

Mr Peters: OK. So it's not the farmer.

Ms Lobb: That wouldn't have been my interpretation. Hopefully, there's going to be a lot of thought going into these regulations, and many of these things will have to be addressed. That's one of the reasons we're saying we hope there's a broad representation on whatever group puts the regulations together.

Mr Peters: I wholeheartedly agree.

Ms Churley: Thank you very much. You've mentioned in your presentation that this Nutrient Management Act goes so far, but only so far in terms of dealing with the problem, but it doesn't address, for instance, the pathogens and other problems. The government has recently announced, and I believe the way it works is, they're giving money to municipalities. They're starting a groundwater study. The other thing that's happening is that the Walkerton inquiry commissioner will be reporting in the near future—he said by the end of December—and then the government will have a chance to review his recommendations. We expect there are going to be a lot of recommendations in this area and around the protection of our water.

I'm just wondering, on one hand, there's an urgency to get on with this, but on the other hand, these other two things are happening which I believe would ultimately have an impact on this legislation and the regulations. So what do you think we should do? Should we wait until these recommendations come forward or move forward? Because once you've passed an act in the Legislature, it's really hard to get it opened up again, believe me.

Ms Lobb: I wish I knew the answer to that. I guess what concerns me is if I see many municipalities saying, "Well, we won't do anything now. We'll wait, because this is going to come down," and barns are getting built, some of them in the wrong place.

Ms Churley: So on balance, then, because I think I tend to agree that we need to maybe see this in phase 1

and then, working with the farm community after these recommendations come forward, move on to phase 2.

Mr Beard: We're getting a lot of public reaction, saying, "When are some rules going to be coming into place?" Municipalities are being faced with applications every day. So I think there is some urgency to get on with getting something in place.

The Chair: I want to thank you, Ms Lobb and Mr Beard, for Maitland Valley's presentation.

CHICKEN PRODUCERS OF HURON COUNTY

The Chair: Our next delegation to come forward is the Chicken Producers of Huron County. Good afternoon, sir. We have 15 minutes, and we'll get your name for Hansard.

Mr Alex Westerhout: Good afternoon, Mr Chairman and members of the committee. Welcome to Huron county. My name is Alex Westerhout. I'm a local chicken farmer who was born and raised in Clinton. I graduated from the University of Guelph in 1979 with a bachelor of science degree in agriculture, majoring in animal science with an agribusiness minor. Since graduating in 1979, I took a small hiatus and explored a bit of the world and backpacked through Europe for four months, but since then I've been farming full-time, producing broiler chickens and cash crops. This year I also entered the hog business. For the past 11 years I've served as a district community representative with the Chicken Farmers of Ontario, or CFO. I'm also the chairman of the CFO's district 2, which happens to be Huron county. I have also been involved with the Huron Farm Environmental Coalition.

I would like to point out that Huron county is a significant chicken-producing county. The number of chicken farms in this area continues to grow as people increase their investment in the future of Ontario agriculture. There are approximately 150 family chicken farms in Huron county, and I emphasize the word "family." Collectively we produce almost 40 million kilograms of chicken meat annually.

I realize that on September 5 in Toronto, John Maaskant, who happens to be a fellow Huron county chicken farmer and CFO director, made the official Chicken Farmers of Ontario presentation to the committee. Therefore I will not waste the committee's time by giving the same presentation. However, since you have made the effort to visit Clinton and hear what I have to say, I would like to take this opportunity to reinforce some of the key points that Mr Maaskant made on September 5 on behalf of the CFO with regard to this legislation.

First, it is important to maintain government consultation with farmers and farm organizations. This has been the case in the past, largely through the Ontario Farm Environmental Coalition, and clearly, as we can see today, consultation is continuing and I applaud you for that. This is something that is essential, especially as

government develops the regulations that will determine the effectiveness and fairness of the nutrient management legislation.

Second, consistency: once passed and implemented, the legislation must be consistent. It must supersede any municipal bylaws. The government of Ontario must ensure, for example, that the Ontario Planning Act does not give municipalities an opportunity to circumvent the provincial legislation. The objective of this legislation is to protect the environment and to prevent water quality problems in the future. The rules and regulations in Huron county should not be any stronger or any weaker than ones in other counties. They must be consistent, and that is why they must come from Queen's Park and not individual municipalities.

1440

I'm part of a new municipality that is an amalgamation of two townships and one town. Within this municipality I own two farms across the road from each other. They have different bylaws and rules. This legislation can be the opportunity to protect us from this kind of variability and all the associated headaches that go with this, of course.

Just to highlight this, I had a phone call this afternoon as I was walking out the door to come to this meeting. According to a neighbour, our municipality has passed a new bylaw for building permits. This bylaw requires a nutrient management plan, at a cost of approximately \$1,500, and a further review by some other party at a fixed cost of \$800. He was quite irate about the cost, and we had a little talk about this, but I didn't really have time to get into it with him. But it does raise some points with regard to this legislation. How much is this legislation going to cost the agricultural industry? Who is going to pay for it? How are these costs going to affect our ability to compete within Canada and around the world? I guess the bottom line is, are all these costs required?

Third, inspection and monitoring: I recognize that for the legislation to work, inspectors may need to visit farms. This, however, poses a potentially serious biosecurity risk. I cannot emphasize enough how this concerns us, and myself personally. Personally, I do not allow anyone on or near my chicken barns unless absolutely necessary. If someone does have to enter, I try to ensure their cleanliness and I'm nervous for the next few weeks thereafter. As we've seen in Europe with the foot and mouth, there's lots of potential there for catastrophe.

I believe that any inspector who sets foot on my farm must adhere to a strict biosecurity protocol. The Canadian chicken industry as a whole is moving forward quickly with its own on-farm food safety assurance program. We need to know that a biosecurity protocol developed by the government will maintain the credibility of the chicken quality assurance program, which has now officially been recognized by the Canadian Food Inspection Agency. Furthermore, we need assurance from government that the people who will be inspecting

and monitoring know what they are doing and have been properly trained. We don't want someone who knows nothing about farming coming on and telling us how to run our farms. I believe OMAFRA is the obvious choice to be doing any inspections or audits.

Lastly, I believe that the use of livestock units to measure farm size or intensity is not appropriate, because these units are arbitrary in nature in the sense that there is no scientific basis for deciding how many chickens make up one unit. That is why we would like to see the government approve the use of AMNUs, or animal manure nutrient units. These units are based on the nutrient content of manure. That is the kind of science that should be used to determine how many chickens are in a unit. However, no matter what system is used, it is important to understand that getting this number right is essential. Not only does this number need to be right, it needs to be easily adjusted.

Thirty years ago, an average feed conversion was 2.5 to one. That means it took two and a half pounds of feed to produce one pound of live chicken. It is now 1.8 to one and going lower, and it's going to continue to improve. As well, what goes in and what comes out has lost the potential to change in the near future. I should have told you as I went along that with this decrease in feed conversion we are also producing a lot less manure. So when you look back at some of these bylaws that were made years ago with the livestock unit, so many chickens per livestock unit, that number is way out of date. We need to really work on this and get the right number for this.

In conclusion, I would like to thank the committee for this opportunity to speak today. But before closing, I would just like to offer a few more comments.

I personally believe that family farms are already doing a responsible job. I live with my wife and two sons on our farm, as most farmers do. Where this manure is produced and where it is applied is where we live. Our water comes from wells on our property. We hike, hunt and fish on our farms. I personally have completed an environmental farm plan. I have a pesticide licence. I hire professional agronomy services to soil sample and make nutrient and pesticide application recommendations. No one has more interest in their surrounding environment than I and farmers in general.

I would also like to make a comment on manure. It is not a waste product. It is a valuable resource. When I first started farming I was on a small acreage. I used to sell the manure. There are plenty of cash-croppers in Huron county and in Ontario, and I believe that most of them could use some manure on their land, if not all. I am regularly approached by several neighbours wanting my poultry manure. It is a valuable resource. I also personally believe that there is no need for any acreage requirement as far as acres per number of animals, AMNUs, livestock units, whatever number is used. The important thing is that the manure is handled responsibly.

Finally, I realize that agriculture has a role to play in protecting our environment. We want to be as responsible

as other sectors in our society, if not more so. I believe this legislation can go a long way toward ensuring that we continue doing a good and responsible job in protecting our environment. For those few who aren't doing a responsible job, this legislation will force them to change their ways.

Thank you very much. I'll try to answer any questions you may have.

The Chair: Thank you. We have about a minute and a half for each party for questions.

Mr Peters: You kind of touched on this a bit during your presentation, but I was wondering if you maybe could elaborate a little bit on this. I understand that there are some chicken producers who are concerned about the way that the animal units were developed and the fact that they were developed during the deliberations for minimum distance separation, thus being based really on an owner and not necessarily from a nutrient standpoint. I was wondering if you could expand on that a little bit. As I say, I think you did touch a bit on it. Do you share these concerns as well, as to how those animal units were developed?

Mr Westerhout: Certainly I do. I guess the bottom line is chickens' feed conversions are changing so rapidly and there's so much potential out there for the feed inputs, enzymes, to change what's going to come out at the other end and what the nutrients are going to be. So just to say we're going to have so many chickens, what size of chicken are we talking? Are we talking a one-kilo chicken, a five-kilo chicken? Most of them are in between, but how many chickens equates to one animal unit? We really need to get down to how much manure, how many nutrients are coming out of that building on a yearly basis and how are we going to handle it? Certainly chicken manure is probably—I might get shot by somebody here, but all manure is not the same. Chicken manure is primarily very dry.

Mr Peters: There's good manure and bad manure.

Mr Westerhout: Let's just say that the broiler industry has dry manure, and as far as minimum distance separations, there's a lot less odour; as far as applying it, there's a lot less chance for it to run off after application because it's dry to begin with; different ways of storing it. It's completely different. So that's why, as a group, we certainly want to be involved in any kind of regulations. I know this committee has probably no direct input into the regulations that are coming, but hopefully you have some kind of moral persuasion there. I realize this is to do with the legislation, not the regulations that are coming later.

Ms Churley: Thank you for your presentation. You've said that you've also recently gone into the beef industry.

Mr Westerhout: No, the hog industry.

Ms Churley: We're hearing sort of both sides of the story of what's been going on here in this area. In fact, we just heard from the conservation authority that there have been problems, leakages and what not. There are some people suggesting that until we get a new act in place and our act together that there should be a

moratorium on—you're probably the wrong person to ask this, but I'd like your view.

Mr Westerhout: I think you probably know my answer before you ask it.

Ms Churley: I probably do. You would say no. But on the other hand, given that there are problems and we can't bury our heads in the sand and say there are a few bad apples and just try to deal with it after the fact, what should we be doing? What do we do to prevent it from happening? What will you do?

Mr Westerhout: The only way I know how to respond to that is, we will never be able to live in a totally risk-free society. If these buildings are being constructed to code, I'm assuming that the code is valid, that the code is right, the building code. So the question is, if we have a problem, where is the problem? Was the building inspector not doing his job? Was the code wrong? Was the contractor in the wrong? I'm assuming that the codes are strong enough. We're building our buildings for snow loads for snow that we've never seen. There's supposed to be some extra protection built into all these codes, so I'm assuming they're good, and I'm assuming that these few problems that we're having—show me an industry that doesn't have a problem. Show me an industry that doesn't have the odd leak, the odd whatever. We don't shut down the whole industry unless it's something that's extremely toxic and dangerous.

1450

Mr Beaubien: Thank you very much for your presentation. I must admit it was quite interesting and quite reasonable and enlightening. I hope that Ms Churley now realizes where the chicken comes from.

Ms Churley: What is it with you?

Mr Beaubien: The one thing that I find somewhat confusing, after spending four or five days on this committee, is that you appear to have the municipal sector wanting to override the provincial legislation and then you've got the agricultural sector basically stating that the provincial legislation should override any other legislation whether municipal or whatever. Even among the agricultural community there doesn't seem to be one voice. Some people say, "Yes, we should be licensed," and some others, "Maybe not," and some of them are looking at animal units per acre and others are not. Do you have any comments? As a member of a committee, it becomes very difficult and confusing sometimes to hear some of the presentations. Your presentation is very valid, I think very reasonable, very workable. Have you got any comments? You're a farmer.

Mr Westerhout: First of all, I'm a farmer. So I'm the salt of the earth, and you have to believe everything I tell you.

Mr Beaubien: I'm gullible.

Mr Westerhout: Realistically, you're part of a committee, and I dare say that the eight of you do not agree on any issue. Is that a fair assumption?

Mr Beaubien: Yes, probably.

Mr Westerhout: So the only thing I can say is that we're a very diverse industry. It's amazing the diversity

of agriculture in Ontario, and we're not talking one or two different businesses. Even within the hog business, there are basically three or four different types of hog farms. You're never going to get a unified voice. I'm here representing my own personal opinion as a chicken farmer. I don't envy your job in trying to sort this all out.

We have amalgamated our municipalities, and it's going to be interesting to see how it all works out, but now we're in maybe a somewhat uneasy relationship. We are now sharing a municipality with a town, my own personal one. It used to be our municipality was strictly rural with several small villages. Now we have the town in it; we have councillors from the town. So we have people who basically have no understanding of agriculture who are on our council, and they're making the rules, and they're subject to political pressure, just as you all are. But sometimes they make judgments based on politics and really not on good science or real, good reason. I guess that's all I have to say about that.

The Chair: Thank you, Mr Westerhout, for that presentation.

LES FALCONER

The Chair: From our agenda, our next delegation, I'd ask Les Falconer. Good afternoon, sir.

Mr Les Falconer: Good afternoon.

The Chair: As an individual, you have 10 minutes.

Mr Falconer: Thank you, Mr Chairman. I would like to thank this committee, as an individual, for this opportunity to speak on nutrient management at the consultation meeting in Clinton on September 13. I thank you for the opportunity because this is to discuss the effects on my livelihood and that of tens of thousands of other Ontario farm families.

My name is Les Falconer. I'm the fifth generation in Huron county since 1834. I farm, together with my family, my wife and four kids, on the east side of Clinton. I have a small purebred cow/calf operation with a few cash crops. Also, I've included sheep in that, since it was brought up earlier today. I'm also an active member of the Huron County Beef Producers. Huron county is one of the largest cattle-producing counties, with 1,500 producers. I didn't want to affect Bruce up there, and Grey.

Like other farmers, I take the issue of environmental protection seriously and support the mandate of this new legislation. Farmers must do everything they can to protect the environment in and around their own farms. I believe just as strongly, though, that everyone, including my urban neighbours in Clinton, must work to enhance the environment.

On my farm I completed an environmental farm plan several years ago, a voluntary process that has now been completed by more than 18,000 farmers. Since then, I've made a number of improvements to my own farm. I've gone to a no-tillage system in my fields, I put a roof on my pit silo and eavestroughs on farm buildings to direct

runoff and I store manure under cover. I think that was included in the CURB program at that time.

While I support the concept of having mandatory nutrient management plans for all nutrient managers, not just those in agriculture, I worry that if regulations become too strict, small farmers like me will be forced out of the sector, paving the way for more and more large-scale farms and businesses or companies.

Implementation of the new regulations and required nutrient management plans must be phased in with the determining factor being total nutrient production and use. A timeline of about five years would be appropriate to give small producers like myself time to make the necessary changes to comply.

It's also important to use many other factors than just livestock units to determine a way of categorizing farms. Types of livestock, manure and soil—manure being good or bad—are all equally important. In Huron county, farmers must take extra caution with their sandy soil, given our proximity to Lake Huron, since we are so close.

I also don't feel it's necessary that nutrient management plans be required to be in electronic form. While a growing number of Ontario farmers have computers and know how to use them, this is an expense not necessary. A written plan should suffice. Nutrient management plans also contain private information and should remain confidential.

I feel very strongly that a compensation package must accompany the new regulations. Financial incentives are essential to ensure that the small farmers are able to make the necessary upgrades and thus be allowed to continue farming. Costs associated with third party reviews, audits or other studies should also not be downloaded to the producers. Primary funding for the successful environmental farm plan program would be a good delivery vehicle for funding related to new regulations for agriculture operations.

There need to be several regulations from which existing operations are exempted. An obvious example would be the siting requirements of farm buildings near rivers and streams. Generations ago, barns were built close to water to provide fresh water for livestock. It would be outrageous to require these buildings to be moved or replaced.

It is my understanding that the new standards will overrule bylaws of similar focus that have been imposed by several municipalities across the province, including one near here. Farmers are looking for clear regulations to eliminate municipal bylaws that set arbitrary caps or restrictions on livestock numbers at a given site.

I do not think the Ministry of the Environment should be involved in enforcing this act. Enforcement should be the responsibility of OMAFRA, an agency whose staff knows and understands the ins and outs of agriculture.

I would like to just finalize this by saying thank you for the opportunity. I also would hope that my family can farm for generations in a small way in Huron county and not be overdumped with regulations.

The Chair: Thank you, sir. That leaves about two minutes for each party. I'll start with Mr Murdoch.

Mr Murdoch: Thank you for your presentation. I appreciate that. One thing you didn't mention: I've noticed most people today anyway feel that rented land should be included in any nutrient plan, that you should be allowed to put your nutrient on rented land. Would you agree with that?

Mr Falconer: Yes, I think you've got to work together. I know operations of other cash-croppers in my area, since I am in a cash crop area—south of Clinton is kind of cash crop and north of Clinton you could probably say is more livestock, but there are people working together.

As far as a long-term contract, I don't think that is possible. Less than five years is probably adequate. If you get into longer you get into details. We're dealing with people who own land and are retired farmers. I myself am a young farmer. How young am I? There are not too many people coming up underneath me. You go to these farm meetings, it's pretty far between. It's those senior members or senior farmers who own the land and other farmers have to use their land for the use of manure.

Mr Murdoch: There's one other thing I'd like to reinforce. I know that you said OMAFRA should be enforcing these rules. I agree with you and I appreciate your bringing that up. Most people here do agree, but there are some who think the Ministry of the Environment should be doing it. I just appreciate your comments.

The Chair: Mr Peters?

Mr Peters: Thank you, Les, for your presentation. It's important that we hear from the individual farmer and how it affects their personal livelihood. I think you've demonstrated to us here today that you've tried to be proactive and do the right thing from an environmental standpoint.

With this legislation, and I don't know how much opportunity you've had to review it, but if you've had an opportunity to review it, have you looked at how it may change the way you do business on your farm right now, and what it's going to cost you?

For example, from a storage standpoint, if you've got to have 365-day storage, or beyond that, or if you've been no-tilling and there are going to be changes to the effect that, "No, you're going to have to have this stuff. You're not just going to lay it on top of the ground; you're going to put it into the ground." That's affecting the way you've been dealing with your farm.

1500

Have you thought it through at all, with what you know right now, what it could cost you and how it is potentially going to change the way that you are doing business?

Mr Falconer: I guess to answer your question, like I said, I went into a no-till croppage, which is a lot of hay. There's a lot of liquid manure you cannot put on hay because it would burn the crop. So we're talking dry manure on hay, and we've been doing it for 150 years

and it has not affected our crops. So on that term, there's no change and there shouldn't be any change with dry manure. If you're getting into injecting liquid manure, I don't think that's going to work in a hay crop. You're going to wreck the ground.

In my situation, no, it is not going to change. But as far as upgrading, I have manure storage now for dry, which was provided with a grant through the CURB program, and that was adequate enough at that time. I forget what the percentage of payment was on that CURB program. Some programs like that need to exist for us small farmers—for all our farmers and not just the small.

Ms Churley: I'm one of those who believe that there is a role for the MOE in this. I thought I'd put that on the record because—

Mr Murdoch: I wasn't counting you, Marilyn.

Ms Churley: I think there is, though, and I think that has to be worked out. When it comes to environmental protection, I understand what you're saying around OMAFRA understanding agriculture and farmers and what you're up against and all the technicalities. But on the other hand, there are other issues that I firmly believe in, and I think that's something we're going to have to work out.

I wanted to ask you about the costs, to follow up on Mr Peters's question. It's not clear yet, because we don't have the regulations and we don't know what's going to be in them, but I imagine that part of what's going on now, particularly on smaller farms, is this is coming down. As I mentioned earlier, we're going to have the Walkerton inquiry recommendations, which are clearly going to have something to say about this, and then there's the groundwater study being done. So I assume that it's a very difficult time for farmers given all these pressures coming at you.

I'm just wondering what it is you need to hear from us to reassure you that that's been taken into account. We've heard time and time again that, particularly small farmers—how should I say that? You're not small. The farmers of the smaller farms are really worried about being put out of business. Is that one of your bigger concerns in all of this?

Mr Falconer: Probably not for me being put out of business, but I think we all like our generations to keep carrying on and for our children to carry on with the farm operation. I may not be able to be put out of business, but as I see the next generation coming on, they'd have to get bigger to be able to carry on. They wouldn't be able to carry on as a small operation, because of the bylaws and the restrictions. So that's my view on that, for the next generation to comply.

Am I a big operation? How do you classify small? My father had 100 acres and I have 300 acres, so that's three times. Does that mean my son has to have 900 acres? That's what I'm getting at. To survive in this world or this economy, is 900 acres going to be big enough to own to comply in 20 years? That's my question.

Ms Churley: Some say that the intensive livestock operations that are popping up all over the place are

putting pressure on the smaller farmers, that it's getting harder and harder to compete. Would you say that's true?

Mr Falconer: It's not harder to compete with Canadians, but it's harder to compete with foreign investments coming over, so I would say yes. It's keeping the price of land up.

The Chair: I wish to thank you, Mr Falconer. We appreciate your input to the committee.

Before I call the next delegation, I will mention the Perth County Agricultural Appeal Review Committee was unable to come today. They're going to catch up with these hearings in Owen Sound tomorrow.

CHRISTIAN FARMERS FEDERATION OF ONTARIO

The Chair: The next delegation to come forward now is the Christian Farmers Federation of Ontario. Good afternoon.

Ms Jenny Denhartog: Good afternoon.

The Chair: We've got 15 minutes. I'll ask you to put your names on the record first, please.

Ms Denhartog: Contrary to what it says on your schedule, I'm not Bob Bedgood. My name is Jenny Denhartog. I don't even look like Bob Bedgood really.

Mr Elbert van Donkersgoed: I'm Elbert van Donkersgoed. Jenny is one of our vice-presidents and I'm on staff.

Ms Denhartog: It's my pleasure today to present to you the Christian Farmers Federation of Ontario's comments regarding the Nutrient Management Act, 2001.

I'll just start by saying that the Christian Farmers Federation of Ontario strongly supports the principle of creating legislation that will enable the setting of standards for agricultural operations where the primary purpose of these standards will be pollution prevention and environmental risk management.

The CFFO strongly supports the use of nutrient management plans as the primary tool for on-farm pollution prevention and environmental risk management.

However, we caution our legislators that the businesses of farming will continue to change the creation around us. Agriculture's challenge is to find ways to tread lightly in creation while building productive farm enterprises.

Having said that, we feel that the approach taken in this act is inappropriate. The Christian Farmers Federation is unconvinced that this act takes the best approach available for the development of pollution prevention initiatives for materials containing nutrients. Nutrient management planning will be centralized, limited by a one-size-fits-all approach. Ontario is too diverse for a one-size-fits-all approach. Farms, watercourses, aquifers, soil types, soil depths, drainage systems, environmentally sensitive areas, climate, the growing season all vary wondrously. Where is the common sense in one rule for all?

Our membership prefers an approach that builds on Ontario's diversity, including the following six components:

(1) Provincial guidelines that establish maximums and minimums for various pollution prevention standards.

(2) Enabling powers for municipalities to adopt nutrient management bylaws and turn these standards into locally relevant benchmarks. Municipalities should be required to consult on their customization of provincial standards and demonstrate that there are local needs that make the modification important.

(3) Training and financial support for municipalities to build capacity to deliver and enforce nutrient management planning.

(4) Provincial third party review by OMAFRA of all nutrient management plans for agricultural operations with more than 50 livestock units.

(5) No fees or other cost recovery initiatives. Farmers will be paying enough to make or have others make nutrient management plans and update them.

(6) All farmers participate in nutrient management planning at a level appropriate to their size over a period of years.

The following are some comments on specific clauses in the act:

A phrase needs to be added to the definition of "agricultural operation" in section 1: "the marketing by a farmer of the products produced primarily from the farmer's agricultural operation." Marketing is an integral part of a farm business. Agricultural operations for the purposes of this act should be required to have a farm business registration number.

Part II of the act is a very long list of regulatory powers. Down the road, these can't help but result in a stack of regulations that apply to farmers. We request that a clause be added to Part II detailing the process for the approval of any regulations under the act. One of the requirements should be that any proposal for a regulation must include an economic impact statement of the proposed regulation.

1510

Clause 5(2)(h) contemplates classes of agricultural operations. The CFFO supports the creation of classes of agricultural operations, and all classes need an appropriate level of participation in nutrient management planning. The CFFO supports the creation of three classes of livestock operations based on the number of livestock units and their density on a site: the first one being less than 50 livestock units; the second one between 50 and 400 livestock units or more than one and a half livestock units per acre; and the third one being greater than 400 livestock units on one site.

Subsection 12(1) will allow inspectors to enter and inspect farm buildings and farmland without a warrant or court order. This creates a major concern for biosecurity on our farms. Biosecurity is essential on all our farms and especially for those who need to maintain quality assurance programs in order to maintain access to markets. The act needs a clause that will require the

creation of a regulation instructing inspectors on how to maintain farm biosecurity.

Section 55 contemplates the delegation to individuals, partnerships or corporations the powers and duties relating to a registry, the review of nutrient management plans and the issuing of certificates, licences and approvals. The CFFO does not support delegation. All of these responsibilities are appropriate responsibilities for the Ontario Ministry of Agriculture, Food and Rural Affairs. No other agency will be able to deliver on these responsibilities with greater credibility.

Clause 57(1)(a) contemplates the setting of fees. The CFFO does not support cost recovery for any of the activities required by this act. This act provides a much-needed public service and benefits the public in general and therefore should be paid for by tax dollars. Farmers will carry a significant cost for the on-farm nutrient management plans that they have to prepare or employ professionals to prepare for them. Any hints in the act that suggest our government could download these costs on farmers should be removed.

There are some additional comments and concerns about the act, which can be found in the document that has been attached for those members of the committee.

In closing, the CFFO urges a common sense approach to pollution prevention. For more than three years, the farm community has supported a formal approach to pollution prevention in agriculture. An act that enshrines on-farm nutrient management plans as the primary tool is half of what we need. The other half is the financial resources that will enable farmers and municipalities to make the changes in practices for which the marketplace for farm products will never pay.

The government has an important role in helping farmers be good stewards. Setting standards is half of it. Supporting financially the management changes that are needed in the face of market signals to the contrary is the other. This act cannot be well implemented without the second half of our government's responsibility being announced. How the economics of pollution prevention will be accommodated needs to be clear before you give a Nutrient Management Act third reading.

We thank you for the opportunity we have here to provide you with our input.

The Chair: Thank you. We've got about two minutes for each party. We'll begin with the Liberals.

Mr Peters: Jenny, Elbert, we appreciate your presentation. I'm not sure how to approach this, so I'm just going to come right out and say it. Mr Arnott and myself have a few unique things to our ridings. One of them is a Mennonite and an Amish community. You may not be able to answer this for me and it just hit me. If you can't answer it, maybe you can steer me where to go. We can deal with legislation and regulations, but at times, in dealing with different communities, there are cultural differences, the way that we do things on a day-to-day basis, the way we deal with things with our land. If it's not a fair question to ask of you, please just tell me and steer me where to go. As we consider this legislation, are

there cultural and possibly religious issues that we need to consider in developing legislation and regulations? If I'm off base, just tell me.

Mr van Donkersgoed: Steve, you've picked on a good example of why in our conversations we have ended up on the side of saying municipalities have to have a big role in the future of how pollution prevention happens on our farms, because some of these circumstances in the countryside are local, cultural circumstances. They may have faith and religious overtones. You've identified a community that has some of that. The region of Waterloo and the county of Wellington have some real experience in how to deal with how those folks live on the land. When you think, for example, of the Old Order Amish and their churches and the fact that they still have outhouses, Waterloo region has found a way to accommodate outhouses in its context of having permits for septic systems.

The notion that we're going to do that on a provincial scale, I don't know what kind of a bureaucracy you're going to build provincially to do that. Some of the customization of this initiative of pollution prevention has to happen at the local level. That's what drives us in our conversations as much as we end up saying—and this is a loud voice in our organization; municipalities don't have enough resources to really do this well—we've got to put the municipalities in a significant role in this initiative or it will not be done well across the province.

Ms Churley: I will submit that the present government doesn't have enough resources to put into it either. That is a reality and a fact. No matter who ends up doing this, the whole funding issue is an important one, because there aren't enough resources now to cover both ministries, as you know. So it's an important point that funding is going to be needed and it's going to be something we're going to have to grapple with, where that funding is going to come from. Is it going to be adequate enough? Otherwise, it'll be just paper; it won't be enforced.

Mr van Donkersgoed: Can I just react to that?

Ms Churley: Sure.

Mr van Donkersgoed: There's not much point in doing this bill if we don't do the funding.

Ms Churley: Absolutely.

Mr van Donkersgoed: Because you'll be asking the farm community to ride a unicycle. There'll be a few farmers who can ride unicycles, but most of us prefer bicycles.

Ms Churley: Absolutely. So that's something that I'm sure for us as a committee, and then as we carry it through the Legislature, is going to be an issue. But I don't think anybody has disagreed on that one. There are disagreements on some of the other issues, but not that one.

I wanted to ask you about the local control. Sure, there are cultural and smaller farms and all of that, but it's a big controversy. I think that out of all of the presenters I've heard to date, there are disagreements in various areas, but there's a stark and very clear division on that

one that concerns me and worries me. The other is whether it should be OMAFRA and the Ministry of the Environment. Those are two that we're going to have to sort out.

I think that some people are concerned about it, because they say that sometimes the fact that it's local now, that there are people who live in cottages or whatever who don't understand how a farm is run and are therefore interfering and making their council pass by-laws that are unfair to farmers. That is what I'm hearing is the big concern around that. Otherwise, I don't think it would be a problem. How do you deal with that, if that's a legitimate concern? I'm not saying it is or isn't, but that's what we're hearing.

Mr van Donkersgoed: Some voices are making too much of this initiative. This is about pollution prevention. This is about creating a formal commitment to pollution prevention on our farms. It is not about catching polluters. The Ministry of the Environment should stay in full charge of catching polluters and they should have more resources and do a better job of that. But this is about pollution prevention. Underlying it is mostly education. It belongs in the hands of OMAFRA. There's no point in getting the pollution catchers involved in building a really strong pollution prevention initiative.

Ms Denhartog: If I could just add, from the previous presentations, from what I hear, it's even those who feel that we should have a blanket provincial standard. All of those still agree that Ontario has an incredibly diverse agricultural sector. I don't know if we quite appreciate the level of diversity that we have in this province and the way that we can respond to that.

Ms Churley: It's just that there are those who feel that the municipality should not have any say or any power whatsoever.

1520

Mr Arnott: I want to thank you very much for your presentation; we appreciate your advice. It's good to see you. Looking at your recommendations, in recommendation number 1, you said, "Provincial guidelines that establish maximums and minimums for various pollution prevention standards." I'm wondering about the word "minimums." Why would we have minimum pollution standards? No, maximum, I guess. You'd want to have obviously a maximum that you can't exceed, but why would you want a minimum?

Ms Denhartog: The minimum would be there just for pollution prevention purposes. Obviously, there is a minimum standard that we would want every farm in Ontario to comply with. The maximum would be in place to make sure that municipalities would not be in a position to drive farming out of their municipality. There should be a range available for them that could make the regulations relevant to that particular municipality while not going below a certain standard or above a certain standard.

Mr Arnott: OK. I want to follow up on Ms Churley's question about the role of the Ministry of the Environment. Are you saying you would prefer that the

Ministry of the Environment have absolutely nothing to do with the enforcement of nutrient management issues, absolutely nothing to do with it, no role whatsoever?

Mr van Donkersgoed: There's always a place for advice and input, but in our view this is pollution prevention on our farms; this is OMAFRA.

The Chair: I want to thank you, Ms Denhartog and Mr van Donkersgoed, for your presentation on behalf of Christian Farmers.

HURON DAIRY PRODUCER COMMITTEE

The Chair: As our next delegation, I would ask the Huron county dairy producers to come forward. Good afternoon. We have 15 minutes, and we'll get your name for the Hansard recording.

Ms Janet Boot: I'm Janet Boot. I'm chairman of the Huron county dairy producers committee.

My presentation has eight points. Basically, we've had some discussion on the local level, the county level, with our milk producers on this. Most of the direction has also come from our board level, which has been keeping us informed in the conversations and the input that they've had. So I'd like to read the eight points to you if possible.

(1) Dairy Farmers of Ontario has been actively involved with other Ontario farm groups in discussions about the need to have provincial standards for nutrient management, and thus we in Huron and the Dairy Farmers of Ontario are supportive of Bill 81 in principle.

(2) OMAFRA should handle the extension and audit functions associated with the act, while recognizing that enforcement will be handled by MOE if pollution occurs.

(3) The Nutrient Management Act must take precedence over all municipal bylaws and acts so that there is consistency across the province.

(4) Biosecurity protocols need to be respected by all personnel working under the act.

(5) County environmental response teams should be created to handle initial complaints. Further enforcement or follow-up may need to be done if necessary by OMAFRA and/or MOE.

(6) The detailed nutrient management plans for individual farms should not be public documents, as they may contain sensitive and protected information.

(7) Adequate funding of public dollars must be made available so that Ontario agriculture can remain competitive with producers in other provinces and countries.

(8) Given that the commodity groups have been very involved in the development of nutrient management plans and the discussions leading up to the introduction of the legislation, we also feel strongly that we should continue to be consulted in the creation of the regulations that will be established under the act.

Those are our eight points.

The Chair: Thank you, Ms Boot. That would allow us three minutes for questions from each party, and I'll start with Ms Churley.

Ms Churley: Thank you. I wanted to follow up on point 2, the issue around who should handle the enforce-

ment and the audit functions and all of that. Your recommendation is that the MOE just be pulled in once pollution occurs but not in the actual prevention. How would you see it working? Obviously there would have to be new people hired to enforce the act and to do the inspections and whatever. Would you see a special unit set up with special training?

Ms Boot: I would think that if you are going to bring in a bill such as this, unless you have the money to enforce it and to set up for inspections and the rest, I don't know why we're even discussing this now.

Ms Churley: So you would see that there would have to be a special unit set up to deal with this to make it workable?

Ms Boot: I would think so, with the education process and everything else.

Ms Churley: That's critical, in fact, to make it work.

There are some who say that OMAFRA—I don't know if they've used such terminology as a "conflict of interest" in some of the presentations, but in one way it would be a problem because they're too close to the farm community; it's their job to help the community expand and grow, like, for instance, if you look at the liquor board or casinos, where you have a division which enforces the law and which runs the operation. I'm just wondering if you have any concerns about that at all, whereas if you bring in the Ministry of the Environment, their role is to not only clean up after a spill but to prevent pollution.

Ms Boot: You're going to compare agriculture to a casino?

Ms Churley: Absolutely not. No, of course not. The example I was giving, just to clarify here—the reason why I mentioned it is that OMAFRA works very closely with the farm community. I am repeating to you what others have said to us. There is a concern that there may be a conflict of interest, and I'm simply asking you if you think there might be some possibility of that.

Ms Boot: From individual farmers on a local level, I don't see much involvement with OMAFRA on a day-to-day basis in agriculture today. We don't have our people out in the field that we used to. If you were making this comment to me eight years ago, I would say, "Well, yes." But today, if I just look at myself as an example of a small operation down the county road, then I would say OMAFRA does not have much involvement with me any more. So to say that there would be a conflict because OMAFRA is so closely knit together up and down the county roads, that does not exist today like it did 10 years ago.

Ms Churley: Just to finish off, to be clear, the reason I raise it is because we're picking out the points of controversy and disagreement here. Over the days of hearings there are certain themes that come up repeatedly, and that's one of them. Therefore, people need to be aware that that's one of the ones we're going to have to grapple with.

Ms Boot: I would say the OMAFRA of yesterday is much different from the OMAFRA of today, and that's

where I would still think the specialty of education and training is still in OMAFRA in order to perform this role that we're asking of them today. Their role of being in touch with the day-to-day farmer on the farm isn't what it used to be, and I can see now where there would be a place for OMAFRA to pick up that kind of role.

Ms Churley: OK. Thank you.

Ms Boot: You're welcome.

Mr Johnson: I had a couple of questions. One was on your number 4: "Biosecurity protocols need to be respected by all personnel working under the act." I assume from that that you mean the enforcement people that might come on to your property.

Ms Boot: Yes.

1530

Mr Johnson: I want to get into a little bit about the biosecurity, if we could call it that, of two different things that you have. If you're in the dairy business, then one is milk. The biosecurity of the milk is important to those people who are going to buy that product and drink it. The other one is the by-product of the animal that produces it, the manure, and the biosecurity of that. Can you comment on those other two biosecurity concerns that society might have?

Ms Boot: Number 4, biosecurity, I would imagine would be for the personnel coming on to my property, that they respect my own biosecurity plan that I have on my farm. That's basically for the safety of my income and the safety of my animals. We have just gone through a heightened alert on foot and mouth, so with that type of biosecurity no one enters my farm.

Mr Johnson: OK. I'm just going to correct one thing: I always thought it was hoof and mouth.

Ms Boot: Or hoof and mouth, yes—foot in mouth, whatever.

Mr Johnson: And I was reading something else. Since 1952—

Mr Peters: Foot in mouth is what politicians do to themselves.

Mr Johnson: I want to tell you that as a member of this committee I have concern about those other two areas of biosecurity, and there may even be another one, and that is the fellow who drives the spray machine that puts pesticides or whatever on the land and the biosecurity, whatever, of where they go and what happens to them.

Ms Boot: Yes.

Mr Johnson: OK? The other one was dead stock disposal. As I recall, I always thought that this was recycling, and we didn't use a blue box. But there is a problem with a backup now of that, because they don't want to do their pickup and so on. Can I have your concerns as a dairy farmer on that?

Ms Boot: On dead stock removal?

Mr Johnson: On dead stock removal. What should happen to dead stock?

Ms Boot: Well, it's a bit of a problem, ain't it? I just had one over the weekend, and I was darn glad that the truck came and picked it up.

Mr Johnson: You were able to get a—

Ms Boot: Yes. I was able to get someone to pick it up. Now, in some areas and in the future—we used to get a few bucks for it. I don't think I'll be seeing a cheque in the mail this time.

Mr Johnson: But it's still at a state where they picked it up without charging you to be able to do it, then?

Ms Boot: I haven't received a bill yet.

Mr Johnson: What were your options had they not?

Ms Boot: Had they not, I really don't know.

Mr Johnson: But most likely hiring a backhoe or bulldozer and burying it on your own?

Ms Boot: Disposing of it, yes. We'd probably have to bury it, which isn't great, because from that you get the whole skunk problem; you get all kinds of pest problems from that kind of thing. We just have a small dairy farm; it only happens on an odd, odd occasion. But you know, the larger the operation, the more chances and risk you have with those kinds of things and the bigger the problem of disposing of these kinds of things.

Mr Johnson: OK. Those are my questions. Thanks.

Mr Peters: Thank you, Janet, for your presentation.

First question: point number 5, county environmental response teams. What are your thoughts on non-farm rural residents making up part of that committee?

Ms Boot: Any committee should be well-rounded. I wouldn't say they should be the majority on that kind of committee. I think the person, if there was someone on that, would have to be well aware of what today's agriculture is. I would really be disappointed if it was just someone who spent six months out along the lake in their cottage, that they would be on that committee. If it was someone who was from the rural community, who was actively involved in the community, knew a bit of what was happening in agriculture today and the pressures on agriculture today, I can't see why a representative could not be on there. But I would say the majority of it should be farm representatives. It would be ourselves more or less going out and checking out these situations first.

Mr Peters: In your own review of this proposed legislation and what may or may not be in it, from what you know of it right now and looking at your own farm, in order for you to comply—we don't have those regulations. It's a bit hypothetical, but for your own farm, are you going to have to do a lot of work? Is it going to be costly for you to meet the new proposed standards?

Ms Boot: We run a small Jersey farm, 30 milking cows. We have 100 acres. Land-base-wise, we're fine. I'm quite happy with my old bank barn, renovated. I do have a manure pit in the back; it's three walls. That would definitely have to be upgraded. When we first bought this farm eight years ago now, we investigated a runoff tank behind there, and they were quoting \$30,000 for it. I'll tell you, on 30 cows, the cows and the quota would be gone before I would invest that kind of money on my own, because there's no return to that dollar. In fact, in my own situation we went out looking for another farm. We have a daughter who is staying home and we're looking at maybe expansion. So we went out browsing

with a real estate agent this spring. I've seen some of the places that are up for sale now. We've seen some that didn't even have a cement pad underneath their chute. I am sure there are a lot of smaller dairy farms out there that would probably close down rather than trying to meet these regulations. That would really change the face of Huron county.

Eight years ago, when I became a member of the Huron County Milk Producers, I became secretary-treasurer. For my first annual meeting I handed out 368 letters to milk producers and cream producers in this county. As of July 31/August 1, we had on record 263, and at Monday night's meeting, on one particular milk route, there were three producers who quit; the milk truck driver was going to lose three on his route. There are eight of us on the committee, and two other people know of two others who were selling out. So we are dropping them fast, and I think with this kind of regulation, without any financial support to help us come up to some kind of a code, Huron county's dairy industry will definitely change.

The Chair: We appreciate that presentation on behalf of the Huron county dairy producers. Thank you very much.

We have a gentleman who is not registered but does wish to speak for five minutes. I would ask the committee if we could entertain that.

Interjection: Sure.

FRANK TABONE

The Chair: Could we ask Mr Tabone to come forward for five minutes? Thank you, sir. You have five minutes.

Mr Frank Tabone: My name is Frank Tabone. I farm in Ted Arnott's backyard almost, east of Arthur, third line. We met before; we spoke. I don't know if you remember me.

But anyway, the problem is that I'd like to see some clarification on this biosolids. Everybody talks about biosolids, how great it is and blah, blah, blah. But the stuff's coming from Toronto, OK? That is a different issue. We're not doing anything about it—not me, but the province is not doing very much about it. They gave this company, Terratec and Azurix, a lot of power, too much power. They came just like the darned Nazis in there or, to put it more bluntly, the Ministry of the Environment is nothing but a Mafia-owned enterprise. That's how I feel and that's how a lot of people feel about it in your area, Mr Arnott.

1540

If nothing's going to be done about that, there's going to be some people who are going to be dying and people are going to be killed. Honestly, what I'm saying is there are a lot of people down there in that area who are quietly boiling about this stuff. This company—Mark Janiec, his company—came over my line. They're going to spread that stuff. He's already been mapping my field without me giving him any permission to come in my field. If I

wasn't there, within a few days he would have come in and covered that field with sludge, and that I do not want. There are a lot of people down there in the Arthur area who are against it. That is one problem.

There's another problem. We're talking about all these rules and regulations and also capping our wells, a diversion, a lot of diversion about capping wells. Those wells have been there for hundreds of years sometimes. Capping the wells and putting the sludge down there is not going to help. You're only going to cover it up, but eventually that stuff is going to leach into the side of it somehow. So that's not solving, it's adding. Get to the root of the problem is my suggestion, to make sure this stuff is really what they say is. As a matter of fact, that company there, Terratec, is going to court for changing some of the stuff they were supposedly putting in there. Somebody caught it by a copy, a photocopy, and it just came to the original notice that went in there. If nothing is done, people are going to be taking the law into their hands. Look what happened a couple of days ago. My God, terrible things happened. You all know about it. I spoke to the councillor there, Gil Reid; you know him. You ask him there. As a matter of fact, we were over in your cousin Gary Hawkins's office. We are good friends. We talked about these people, and somebody's going to

do something about killing somebody, they are so mad about this darn company. Obviously it's been done through a number of years. Certain people are very ignorant about whatever their cause was. Four planes hijacked in the States and they killed thousands of people. In a small, small way, it could very well happen. They will target these people and they will target the environment. I would never, ever do that myself—I would rather die than kill somebody—but it's going to be done unless you do something about it, sir.

The Chair: Thank you for your presentation. We have wrapped up our time.

Mr Tabone: Also, there's another little thing.

The Chair: We've pretty well run out of time, sir. Perhaps as MPPs we could deal with you separate from these hearings.

Mr Tabone: I spoke to Mr Peters and I'll get back to Ted.

The Chair: Thank you, Mr Tabone.

For the purposes of the committee, the bus is leaving immediately. We reconvene tomorrow morning at 9 am in Owen Sound. We are meeting at the Exodus Hall, 250 14th Street. The hearings for today are adjourned.

The committee adjourned at 1546.

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ISSN 1488-9080

Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Friday 14 September 2001

Journal des débats (Hansard)

Vendredi 14 septembre 2001

Standing committee on justice and social policy

Nutrient Management Act, 2001

Comité permanent de la justice et des affaires sociales

Loi de 2001 sur la gestion
des éléments nutritifs

Chair: Toby Barrett
Clerk: Tom Prins

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY

Friday 14 September 2001

The committee met at 0902 in Exodus Hall, Owen Sound.

NUTRIENT MANAGEMENT ACT, 2001

LOI DE 2001 SUR LA GESTION
DES ÉLÉMENTS NUTRITIFS

Consideration of Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts / Projet de loi 81, Loi prévoyant des normes à l'égard de la gestion des matières contenant des éléments nutritifs utilisées sur les biens-fonds, prévoyant la prise de règlements à l'égard des animaux d'élevage et des biens-fonds sur lesquels des éléments nutritifs sont épanchés et apportant des modifications connexes à d'autres lois.

The Chair (Mr Toby Barrett): Good morning, everyone. Welcome to this regular meeting of the standing committee on justice and social policy for Friday, September 14, at the Exodus Hall in Owen Sound. Thanks to the good work of our local MPP, Bill Murdoch, we understand this may well be the first time in recent memory that the Ontario Legislature has held hearings in this community. Is there any information on that, Mr Murdoch?

Mr Bill Murdoch (Bruce-Grey-Owen Sound): This is the first time. I've been around for 11 years and I can't remember one before that, either. So I think it's the first time we've had a committee hearing in Owen Sound.

The Chair: We can leave this up to the historians. I know our hearings in Haldimand may well have been the first time for Haldimand county, and we think perhaps the first for Elgin county. We held hearings in Holmesville yesterday, down in Huron county, and I don't think the standing committee had been to Holmesville before.

Mr Murdoch: It just shows Queen's Park hasn't figured out rural Ontario is around. It's taken them 100-and-some years.

Ms Marilyn Churley (Toronto-Danforth): Is this actually going into Hansard?

The Chair: Yes. Our agenda for today is Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Vendredi 14 septembre 2001

farm animals and lands to which nutrients are applied, and to make related amendments to other Acts.

Before we begin, people will be aware that today has been identified as a national day of mourning. As these hearings have travelled the province, everywhere we go people are obviously cognizant of what has happened in the United States. Our thoughts and sympathies are with the victims and families in the United States. I understand that at noon hour today there is to be a three-minute time of silence and we will have more information on that perhaps in the course of the morning.

BRUCE COUNTY PLANNING
DEPARTMENT

The Chair: Looking at our agenda, we have a number of delegations. The first delegation I wish to call forward is the Bruce County Planning Department. Could you please approach the witness table and give us your names for the Hansard recording, and we have 15 minutes.

Mr Stuart Reavie: My name is Stu Reavie, a Bruce county warden. I have with me David Smith, the Bruce county senior planner. We're delighted to be here this morning, with Bill up north, to make a little presentation here.

Mr Murdoch: We're glad Queen's Park finally found us.

Mr Reavie: Yes. We recognize where we are, Bill.

Bruce county, and indeed all our eight local municipalities, have been struggling with issues surrounding intensive farming for the past five years. The key hindrance to providing local solutions to the issue has been the lack of proper legislation, both provincial and enabling. Therefore, Bruce county very much welcomes an opportunity to comment upon and provide input into Bill 81. All would agree that the bill has been a long time coming, and we hope that a speedy passage of the bill and subsequent regulations will help us in providing some solutions to the issues around intensive livestock farming.

Some background on the corporation of the county of Bruce: Bruce county is an upper-tier municipality created on January 1, 1850. The county recently restructured from its original 32 municipalities to eight. The county level of government is a multimillion-dollar enterprise, with yearly expenditures in excess of \$20 million per year. We are part of the southwestern Ontario business

region that is one of the most internationally competitive in the world, with exports in excess of \$50 billion per year. At a county level, we provide government services to 70,000 year-round residents, 30,000 cottage owners and the domestic and international traveler.

The agricultural economy: in Bruce county, over half of all our farms are dedicated to beef production, making us number one in production of beef in all Ontario. Bruce county is also among the top-producing counties in Ontario for oats, canola and barley. We have just under 4,000 farm operations, generating \$255 million in gross sales annually, based on a 1996 statistic. Over 62% of the total land mass in Bruce county is dedicated to agricultural production.

The county's agricultural economy is intrinsically tied to global trends in the agribusiness sector. We are similar to other jurisdictions which have seen an increase in the scale and intensity of farming as a competitive necessity. As in other North American jurisdictions, farms are getting larger. The average farm parcel size is just under 300 acres and the trend toward farming consolidation is predicated to continue. Having said this, farming in Bruce county retains its family feel, as 63% of all farms are still family owned and operated.

Co-existence of the agricultural and tourism economy: in addition to a strong agricultural economy, Bruce county has a strong and emerging tourism economy. At the county level, the challenge is to strike a balance between what oftentimes seems to be two competing objectives: the need to foster and facilitate the growth of a modern agribusiness economy while at the same time providing a pristine natural environment that is prized by tourists.

Bruce county is recognized for its natural beauty, covering an area of over 4,000 square kilometres. We have over 2,400 kilometres of pristine Great Lakes shoreline, the mighty Saugeen River watershed and many inland lakes. Bruce county is home to two federal parks: Bruce Peninsula and Fathom Five, Canada's only underwater marine park. The county includes a good portion of the Niagara Escarpment, recognized as a United Nations world biosphere site. The tourism industry generates at least \$118 million annually. With income multipliers applied, this is estimated at \$300 million per year. Tourism directly employs one in seven persons.

Our general comments on Bill 81: it is difficult to make any meaningful comments on the bill without seeing the actual regulations. The bill is set up as provincial enabling legislation that could allow for regulation of virtually all facets of farming. The county requests that extensive municipal and public review be undertaken in the development of the regulations.

0910

Notwithstanding this, Bruce county offers the following general points for consideration:

(1) The bill represents a broadening of approach in what the county and our local municipalities have considered under nutrient management bylaws passed under the Municipal Act. The regulations leading from the

legislation could very easily impact small-scale or more traditional farms, as well as large-scale intensive farming operations which have currently been the focus of nutrient management bylaws. We cannot give outright support to the concept of regulating all sizes of farms in the absence of regulations.

(2) Currently, the approach in Bruce county has been to regulate the construction of intensive livestock facilities and the spreading of liquid manure generated from such. The Municipal Act bylaws have been augmented by many of the local municipalities through the use of section 34 of the Planning Act. Specifically, some municipalities have implemented caps on animal agriculture and would require a site-specific zone change for what locally are considered factory farms.

The county has significant concerns regarding section 60, which states, "A regulation supersedes a bylaw of a municipality or a provision in that bylaw if the bylaw or provision addresses the same subject matter as the regulation." We cannot and will not support this section. As a Nutrient Management Act, the intention, we have been led to believe, was to introduce a new law that would set and enforce clear, consistent standards for nutrient management on farms, not to regulate the location of such agricultural operations. The location and erection of buildings and structures has been, and continues to be, addressed under the provisions of the Planning Act.

At the very least, a mechanism to provide for local regulation of the location of livestock and poultry operations should be incorporated into the act. This would allow local municipalities the ability to address their unique geographical, environmental and agricultural industry differences across the province.

To simplify the future interpretation of the act, we would also recommend that the province reword this section to clearly establish the seniority/precedence of the Nutrient Management Act and the Planning Act in respect to the other, rather than through a somewhat vague reference to subject-matter sections in the regulations taking precedence over local bylaws.

(3) The legislation is exclusively focused on regulating nutrients. Although the addition of excessive nutrients to the ground and water are an obvious concern, health risks from water-borne pathogens—E coli and fecal coliform—are also of concern. If in fact the Walkerton situation has served as a wake-up call for all jurisdictions, then perhaps the focus of the bill should equally be on human health risks as opposed to solely on nutrients.

(4) As agriculture is the primary economic engine in Bruce county, we are concerned with the costs of implementing this legislation. We request that direct funding be made available for cleanup efforts on individual farms, and that funds be made available from the provincial government to fund the cost of compliance.

(5) The county also has concerns regarding the explanatory note to the bill and the wording/terminology in subsections 17(3) and 12(4). It is understood from the

explanatory note that a discharge has to be of some significance to constitute an adverse effect. It will not be considered to be a discharge or an adverse effect if it poses only a trivial or minimal threat to the environment. Bill 81 goes on to state that the act will not affect the application of the Environmental Protection Act or the Ontario Water Resources Act.

This explanatory note at the beginning of the draft legislation appears to be in conflict with the traditional interpretation of section 30 of the OWRA, which would consider any discharge of a substance that could be deleterious to the environment to be an infraction of the act.

This explanatory note also appears to run counter to the provisions of the federal Fisheries Act. The explanatory note raises potentially confusing and conflicting messages to the farming and rural community. It remains possible that a discharge of nutrients from an agricultural operation could be determined not to be an impairment of the quality of the natural environment as determined by the Nutrient Management Act but the same discharge could be considered an infraction of the OWRA and the operators charged under such legislation.

Despite the recent Court of Appeal decision in *R versus Inco Ltd*, the interpretation of subsections 17(3) and 12(4) in relation to the senior legislation should be reviewed and clarified. Thank you.

The Chair: Thank you, sir. We begin with Mr Peters of the Liberals. I think we've got maybe 30 seconds for a quick comment or statement.

Mr Steve Peters (Elgin-Middlesex-London): Warden, I was wondering if you could expand on your point number 1 on page 2. If I'm understanding this, you're saying that a farm with 20 cows needs to be looked at differently than a farm with 200 cows?

Mr Reavie: Yes. There are different issues there as far as your buildings and nutrients and everything. I don't think you can apply a one-size-fits-all to all agriculture in our area.

The Chair: Ms Churley, briefly.

Ms Churley: In point three, I agree with you that nutrient management is important but that this bill doesn't cover the big issue here, and that is the pathogens. There is no time now to discuss it, but others have pointed that out as well, particularly after what happened in Walkerton. I'm just wondering what you think needs to be done in addition to this bill.

Mr Reavie: Do you want to answer that?

Mr David Smith: I guess you could say that we don't look at any specific measures at the present time, but addressing the concept that where nutrients remain, the nitrogen, phosphorous and potassium issue is the key issue, as opposed to closures of beaches from fecal coliform and other issues, which are as much in the public eye as they're not. They are certainly concerned about allergy blooms and things such as that from a nutrient perspective, but they are also significantly concerned about a beach closure, which, even under the act, in its concentration on nutrients, can still happen. So whether

you're addressing what the public's concern is in that regard—and they don't recognize as much the allergy bloom issue that we haven't had in quite a few years—versus the beach closure issue, even after the passage of this act, it may seem to the public to still be failing in addressing what would be their major consideration. This comes back to our continued interest in the tourism industry and in our cottagers, whom the council also represents.

The Chair: We now go to the Conservatives.

Mr Murdoch: Thank you very much for the brief. It gives us a lot of food for thought, which we need. I too have concerns about the regulations. If we don't put them out in the public again, we'll be in trouble, I think.

The only thing you didn't address—and I'd like to ask you what you think—is that there will be an enforcement of this bill, and there's been talk of MOE doing it or OMAFRA. I just wondered if you had a thought on who you think should enforce this bill.

Mr Reavie: I think it's a job for both. I think there's a role for both people. MOE can look at the water quality and the passages and things like that and the other corporation can maybe look at the nutrient management plans and make sure they're in place. So I think there's a job for both.

The Chair: Thank you for the brevity of the committee. We wish to thank you. We appreciate the presentation from the Bruce County Planning Department.

0920

BRUCE COUNTY FEDERATION OF AGRICULTURE

The Chair: I now wish to call forward the Bruce County Federation of Agriculture. If you wish to proceed, we have 15 minutes. We would ask you to give us your name for the Hansard recording.

Ms Jayne Dietrich: Jayne Dietrich, Bruce County Federation of Agriculture president. I will echo a couple of comments that Warden Stu Reavie made in his opening comments.

For many decades the Bruce region has grown and prospered with the hard work, dedication and entrepreneurial spirit of many generations of men and women working the land. Throughout the years, farm families have prospered through the growing of crops and the husbandry of livestock. Supporting businesses grew, providing jobs and opportunities to many people throughout the area.

Agriculture is the second largest industry in Ontario. Bruce county farms generate over 28,000 weeks of direct full-time and part-time employment per year. Over 62% of the county's land mass is dedicated to agriculture. Gross revenue from Bruce county farms exceeds \$300 million. This region's farmers contribute to a significant portion of Ontario's economy.

The province of Ontario and local government must provide infrastructural development that recognizes the need for greater economic stability for rural areas.

Agriculture must be given the tools to continue to be a stable source of wealth generation, while recognizing the need for maintaining excellent care of natural resources and the environment. Therefore, new costs associated with compliance to this act must be supported with government funding.

It is difficult for BCFA, which I'll use in place of "Bruce County Federation of Agriculture," to determine at this time what this legislation will do to enhance farm business. To our knowledge, there has been no legal interpretation of Bill 81. It is our understanding that this act is designed to deal with problems not already addressed in existing policies. However, many concerns are already dealt with by the following acts: the Environmental Protection Act, the Drainage Act, the Ontario Water Resources Act, the Pesticides Act and the federal Fisheries Act. BCFA feels that education and incentives at the primary producer level would be the most effective way of implementing nutrient management plans using the environmental farm plan as a model.

The development of regulations attached to Bill 81 must include full participation of the agricultural community. We need to be guaranteed control over the content of the regulations, either by direct input or as a review and approval process. We understand that control is a strong word. However, the potential implications of the regulations could be so severe that to be offered input only is not sufficient. The nature of the regulations have the potential of making the bill unpalatable. If the agricultural community is not allowed control in determining or approving the regulations, then we feel it may be necessary for agriculture to re-evaluate the need for Bill 81, in comparison to the potential liability.

It is imperative to BCFA that the Ontario Ministry of Agriculture, Food and Rural Affairs be the lead ministry with regard to Bill 81. It is important to the farming community that farmers are viewed as competent by our neighbours, communities and consumers. We are in favour of enforcement for those who may deliberately harm the environment. Agriculture is the second largest industry in Ontario and takes its lead from OMAFRA, with the support of the Ministry of the Environment. Without OMAFRA as the lead ministry on this legislation, the support for Bill 81 would be questionable. As well, BCFA requests ongoing studies on the economic impact of this act to Ontario agriculture.

If I could just make a note there, this morning I had a call from one of my directors who was at an occasion with Elizabeth Witmer last evening, and I heard it on the news this morning that apparently she has announced that MOE will have control of the enforcement regulations of this bill. That was news to me, so I haven't exactly had time to contemplate that.

It is not acceptable to assume that the primary producer will bear the costs of enforcement, modifications and updates in order to comply with this act. Municipalities have in the past received millions of dollars to meet government regulations to install, operate, update and maintain municipal water and sewage systems,

primarily in urban centres. We are concerned about our farm families. Farmers will be subjected to a fee, as well as changes to their farm infrastructure and some changes to management practices. BCFA feels that there needs to be government financial support for these transitions.

It is BCFA's understanding that there are farmers who are currently exempt from the farm business registration program. We would like to make note that those who are exempt will need to be in compliance with Bill 81.

BCFA objects to the word "intensive" as a description of agriculture, unless that word is defined, as well as the word "discharge" as a means of spreading or applying nutrients.

BCFA endorses the need for every farmer to have a nutrient management plan. However, with the use of the best management practices publications, we feel that maximum compliance and therefore maximum benefit would come more willingly and quickly with incentives and education. Bill 81 is setting minimum standards. However, the best management practices publications have set a standard of excellence. BCFA feels that a commitment by the government to update the best management practices publications would do much to lead Ontario agriculture to standards of excellence through education and incentives rather than legislation.

BCFA appreciates this opportunity to help policy-makers differentiate between the noisemakers and those willing to put their money where their mouth is. To soften that a little bit, if our environmental groups and our consumers and those outside looking in feel this program is so beneficial, then usually with purchases of benefit, people are willing to pay more. So if they feel that this is of such benefit for them, then we would offer that they would need to start to think about how we are going to bear the costs of this.

The government needs to indicate to us ample reason for this act. If Bill 81 is worth consideration, then there needs to be a purpose that is not provided for anywhere else in any existing acts. If the only additional purpose determined is enforcement, then we need to question the necessity of Bill 81 and deal with enforcing the acts that already exist. We need to be reassured that this act will not become an industry unto itself serving an industry that cannot afford it.

The Chair: That leaves about a minute for each party for comments or questions. We'll begin with the NDP.

Ms Churley: There's never enough time, so I'll stick to one specific area. You may have just heard the submission from the county of Bruce. There is a difference of opinion, and it's a stark difference. Some feel that this law, if passed, should supersede the municipal bylaws, and then there are others who feel very strongly that municipalities should have some right and some say under the Planning Act to the growth in their area, given the differences across the province in environmental issues and tourism, etc. What's your feeling on that?

Ms Dietrich: My understanding is that this act will supersede municipalities. My question back to you would be, is it possible to create regulations that will make it

feasible for all farmers to comply? I agree with the warden in the fact that the complexity of agriculture in Ontario varies extremely, from soil types to crop rotations to heat units to the slope of the land to the proximity of water. It makes it all very difficult to create a one size fits all.

However, we do appreciate, I guess you might say, the hodgepodge, or the various municipalities that have created different legislation. We have to be careful sometimes because there are two sides to it. That legislation can be created by those outside the farming community and it becomes a very emotional situation as well. I don't know if I've answered your question but I can appreciate both sides of the situation.

Ms Churley: That's helpful. Thank you.

Mr Murdoch: Thanks, Jayne, for your brief here today. I appreciate it. I think it shows some of the frustration that's in the farming community with this bill. I think everybody probably thinks there needs to be a bill of some sort but there's a lot of frustration going with it and of course the regulations are there.

What you heard this morning about the Minister of the Environment saying that, I'll guarantee to you that I'll fight her all the way. I don't want the MOE enforcing this. I'll go to the point that maybe this bill won't get passed if that happens to be the way she thinks it's going to be, because definitely I don't think the Ministry of the Environment should be enforcing this; it should be OMAFRA. I'll certainly take that message to Queen's Park and inform the minister that she has her facts wrong.

0930

Ms Dietrich: So that was news to you as well?

Mr Murdoch: Yes. I know they think they are, but there has been no decision made at this point with the mass of MPPs. Somebody in cabinet may think that, but they may have to change their attitude.

The Chair: We'll go to the Liberal Party.

Mr Peters: Jayne, thank you for your presentation this morning. An important component once this legislation and regulations have been developed is going to be these community environmental response teams or advisory committees. Who do you see being members of these response teams, advisory committees, to deal with some of the on-the-ground issues?

Ms Dietrich: Certainly I'm very much in support of the primary producers. The grassroots of our industry certainly need to be reassured at this point that we are going to have that kind of control or input, that we will have an appeal process or some kind of a process, that we will be heard. We don't have the funds to create large processes with which to get our point of view across, and certainly we really appreciate opportunities such as this. I certainly am strongly in favour of primary producers.

Mr Peters: I'll be more specific: non-farm rural residents. How do you feel about a non-farm rural resident being on an advisory or environment committee?

Ms Dietrich: Going back to Mr Reavie's comments, as you are aware, tourism is a large industry in Bruce county. I see an opportunity in the tourism and the agri-

culture industries for co-operation. I would not be afraid to have those sorts of people on our committee. I feel there's an opportunity here for both of us to be able to work together, providing that the stipulations and standards and regulations in place allow us a fair opportunity so that we can both co-operate.

The Chair: On behalf of the committee, we want to thank the Bruce county federation for coming forward.

FOODTRAX INC

The Chair: Our next delegation is FoodTrax Inc. Please approach the witness table and give us your name for the purposes of Hansard.

Mr Tony Morris: My name is Tony Morris. I am the owner of a company based in Bruce county called FoodTrax. We are somewhat unique in that we provide specialized services in the implementation of identity preservation systems, third party audits and genetic identification of crops and foods. This service is provided to enhance opportunities for Ontario and Canadian exports of agrifood products.

I believe every member of the committee has a brief that has been prepared. I will be reading from some of it but not all of it.

The first question I would ask the committee is, what net value benefit will Ontario experience with Bill 81? Has Bill 81 accurately identified the problem and in so doing provided the solution?

My presentation to you is intended to provide a third party overview from an independent perspective as a market specialist and global analyst in the agrifood industry.

The issues surrounding livestock manure and its usage have long been recognized, but the most common response of governments and organizations is to seek ways to minimize the impacts rather than to ask the real question of how we will deal with the situation.

These battles are fought along ideological lines, led by people whose intentions seem valid in their eyes. But, unfortunately, the real victims of such debate are the men and women, companies both large and small, whose competitiveness is adversely affected by the policy outcomes.

As a specialist in identity preservation, IP can be summed up in its simplest form as being the management of value throughout the supply chain. An important point is that all involved must receive benefit or the system fails. It comes down to the simplest form of sales. If the value of the benefit is seen to be greater than the cost of the product, people will pay. Are the values of Bill 81 such that government, on behalf of society, is prepared to pay? If the proponents of Bill 81 see enough value in legislation, we must conclude they are prepared to pay. If the proponents of passing bylaws to restrict farm growth see value in their actions, we must conclude they are prepared to pay. As policymakers, you must differentiate between those clamouring for change and those paying for the effects of change.

The general wisdom expressed by many, including lawyers, legislators and environmental groups, is that legislative action will solve the problem. The failure in this thinking is that this is not a legislative or systems problem. Our abilities to increase production have been as a result of technology. Whether they be genetics, nutrition, building design, computers or robotics, we have met the consumer demand for lower-cost product.

The challenge, then, is to properly identify the problem and then find the solution. It is doubtful the solution will be found in legislation. The solution to a problem created by technology will be found in technology.

Many people are expressing concerns. They are genuine and require action, but one must question whether Bill 81 will provide the solution.

The problem with a legislative approach is that it is people who must respond. Human nature will dictate that we gravitate to what it is we have to do to pass the test. This passing standard is simply not good enough. We should and must aim for excellence. By its very nature, this conflicts with the goal.

I'll point out some specific sections that are troubling, in my personal estimation, and those are sections 5 and 6, part II, management of materials containing nutrients and regulations.

These proposed setting of standards suggest that it will be the government being placed in a position to determine the best practices for individual operations. The question must be, what problems are evident that require implementation of such regulations?

One such regulation that is indicated is section 5.2.c(vi), regarding technology. Given the speed at which technology is changing, and standards specified in many IP contracts that I deal with, it is very difficult to imagine how government could regulate technology usage. In particular, how does any government intend to prescribe conditions of usage in a timely manner without severe economic implications to the industry?

The adoption of technology is fundamental. It is dependent on the speed at which the technology can be communicated. Leaving the decision for technology implementation to bureaucratic decision will have major economic implications for farmers.

Traditional thinking suggests we need to spread manure on land. New technology exists in Europe that changes the paradigm, allowing large numbers of livestock on minimal acreage. We must never fall prey to boxed thinking that will impact future capabilities. The technology exists. We can do it in Canada and we can transform animal manure into marketable components. For the committee to review, I've indicated one such system called the Biorek separation system, which was developed in Denmark.

Another point is part III, hearing by a tribunal. The recommendations are set out there in my brief. I believe they place unrealistic demands for response time for right of hearing on those living in rural areas. Canada Post will not guarantee delivery of priority post from a rural post office in less than five working days. The act makes no

mention of the type of delivery, so one must conclude it will be by normal mail delivery, and yet the farmer is given 15 days in which to provide a written response.

My recommendation to the committee is to look at and change subsection 53(2) to seven days and subsection 8(1) to 30 days.

Inspections and orders: the act will grant right of entry on to farm operations but has not established within the act the need for biosecurity protocols of provincial officers. This has ramifications under obligations for biosecurity protocols established within identity preserved contracts. Given the extent to which disease can be spread, it is essential that the act specify the requirement for establishing and observing biosecurity protocols of provincial officers.

Section 56 of the act absolves the crown and its employees from liability yet places upon them no responsibility for ensuring due care and safety over biosecurity in carrying out their duties.

In conclusion, without doubt, there are deep emotions surrounding the issue of liquid manure, in particular that of hogs; more specifically, the concerns of people over what they perceive to be the risks associated with large barns. Yet we have no definition of what is large. Is it realistic to expect that Bill 81 will address these concerns of people?

Most large operators have proven themselves as responsible managers, taking care and pride in how they operate. Failure to do so is well governed by numerous provincial and federal acts already in existence. These acts clearly provide ministry authorities with the necessary response mechanisms.

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Agriculture continues to change with the advent of global trade agreements, technology and the demands of consumers. It is important that any legislative initiative allow for the continued evolution of the industry, recognizing there are needs to ensure societal values are maintained. It is in the maintenance of these societal values, whether they be of a social or environmental nature, that government must be prudent not to place competitive disadvantages on the agricultural industry and its farmers.

I began by asking a question: does this act identify the real problem and provide a solution? There is no doubt there are strong management benefits that can be realized by every farmer doing a nutrient management plan, but if they are done for the purpose of compliance, they will lose their effectiveness and will contribute to increased costs. They are not a solution unto themselves. By their very nature, nutrient management plans are part of a plan of farm operations. Societally, they may contribute little without changes in the way we plan growth in the rural community. Traditional planning is undertaken under a municipal boundary system. The committee may well recommend a process to begin discussions on changing our planning process to that of a watershed approach.

There is a very real concern that by applying specific regulations to the management of operations, we will see

compliance enforcement to set provincial standards rather than the flexibility of individual requirements and capabilities. It will be hard to imagine support for this act if compliance enforcement is the lead responsibility of any ministry other than agriculture.

In closing, in marketing there is a maxim that asks, what is it you do better than anyone else that adds value to the lives of people and that makes you unique? This act has the opportunity to make Ontario agriculture better than anyone else when it comes to the handling of nutrients being applied to the land. One must assume it will add value to the lives of citizens. If so, they must be prepared to pay. If it is truly unique, we will have a marketing opportunity. Thank you.

The Chair: Thank you, Mr Morris. We have a little less than a minute for each side. We'll begin with the Conservatives.

Mr Bert Johnson (Perth-Middlesex): Tony, notification and the rural mail delivery and that sort of thing is a problem, and I understand that. Your solution is to extend those times. I'm wondering about a very serious situation where manure is getting into a creek or waterway and it can't be stopped until this process. What do you do in a case like that?

Mr Morris: Mr Johnson, you raise a good point. Unfortunately, I do not believe that is the context within which this is being proposed. The context in which this is proposed is for a director who issues a non-compliance or non-issue of a nutrient management plan. If somebody is already polluting, the Ministry of the Environment already has, under the Environmental Protection Act, full authority to move in without notice immediately without any regard to any other act. So it's already there. What I'm looking at is specific to section 56, which is the notice of non-issue or non-compliance by the director. That's a totally different context in which it's ordered.

Mr Johnson: So the timing change I would accept, then, as a good solution.

Mr Peters: Thank you for your presentation, Tony. You point out in your presentation that for a lot of the things that are in this act there is already protection out there between provincial and federal regulations. I think you make a very valid point as far as conservation authorities, because watersheds do not know any boundaries.

With the resources that are being put into the development of this legislation and the regulations that are going to come out of this, are we better off to just leave this as a local issue and let the local municipalities deal with it and expend the provincial resources and energy on the research and development, to look at the new technologies which may potentially solve the problems that technology has created?

Mr Morris: I think when we look at what we had begun to do in the early 1990s with the development of best management practices, the idea was to bring a standard of excellence to Ontario agriculture through education and awareness. Legislation has the ability to go to the lowest common denominator. It is doubtful whether this legislation, given the Hudson versus crown

case with respect to the handling of pesticides within municipal boundaries, will remove the ability of municipalities to fundamentally deal with issues within their own boundaries. That's the first case.

I believe that if we are truly trying to do something of benefit, that will best come about by bringing an awareness and building an attitude to want to do something. Unfortunately, as I stated in my brief, in the mid-1990s we saw cutbacks in funding, which I believe were short-sighted, which took away that education and awareness ideology and we are now moving into an enforcement and regulatory position.

Ms Churley: I just wanted to come back to your comment about the watershed. I don't know if you said this, but I believe you were saying that this legislation does not deal with the real problem and that nutrient management can be dealt with through other means, ie, expanding the healthy futures program and making sure there are enough resources in it to do the education and the work and bring back programs like CURB or whatever. I believe that's what you're saying, that this should be scrapped and that we should be looking at legislation that deals more directly with the problems around pathogens and stuff like that.

Mr Morris: Wanting farmers to do a nutrient management plan, I truly believe, having been a former chair of the Ontario nutrient management working committee, is an excellent thing to want to do. What I'm not convinced of is that legislation will bring about the kind of attitude we need when we start looking at watersheds, if you want it in a holistic way. Legislation by its very definition is something the people will strive to meet and that's it. That's human nature. If we instill in our children that 50% plus 1% is a passing grade, that's what they will aim for. There are very few who will aim for a standard of excellence. So we have responsibilities to move beyond setting a minimum standard, or reaching for the top, if I can say that. A watershed approach would look at everything that then happens from septic to biosolids to agriculture within a given watershed.

As you rightly pointed out, a watershed does not work within boundaries; it goes across municipal boundaries. I'm not sure this act would do that. I'm not sure that the act, even if it makes every farmer do a nutrient management plan, will have the kind of effect or will deal with the kind of issues that people are really concerned about. There is no mention in here of odour whatsoever, how you deal with it. I'm not the person to answer that, but the act will certainly not deal with someone's concerns about odour. I'm not sure any act ever can.

The Chair: Thank you, Mr Morris. We appreciate this briefing through FoodTrax Inc.

ONTARIO SHEEP MARKETING AGENCY, DISTRICT 2

The Chair: From our agenda, our next delegation is the Ontario Sheep Marketing Agency, district 2. Good morning, sir. I'll ask you to give us your name for Hansard. We have 15 minutes.

Mr Vince Stutzki: I'll be shorter than that. My name is Vince Stutzki. I'm the vice-chair of our district 2 sheep committee. I was asked on behalf of the committee to make a little presentation here.

In principle we are in full agreement with the concept of the Nutrient Management Act and are here today just to address about six of the issues that are in the act on behalf of the sheep producers.

The first concern we have is that no ministry is actually named in the act which will administer the act. What we would like to see is that OMAFRA actually oversees the administering of the act, the reasons being fairly straightforward. OMAFRA has the expertise in the agriculture sector and there is a relationship that already exists between the ag sector and the government in that department. If need be, the MOE, which already has the power, will be responsible for enforcing the act.

The way we see that is basically when this act is implemented and the regulations are formulated, there are probably going to be some consultative processes taking place. It would be a lot easier for a farmer to accept an OMAFRA individual coming on the farm and talking about the Nutrient Management Act than somebody who has actually no connection to agriculture itself.

The second issue is that the act does not address the issue of biosecurity. This is of grave concern. Our position is that a veterinarian-approved biosecurity protocol needs to be set up and implemented for those who are responsible for administering the act.

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The third one is the powers of the provincial officers, whoever they may be. We live on the farms and a certain respect has to be provided for the homestead. In other words, we can't just walk into a house, which is not stated in the act; they can just basically do as they please. That's of grave concern because this actually is our place of living. In other words, the powers are too broad. They need to be curbed with regards to their inspection, seizure and gathering of information and records, and sampling.

Also, a written notice needs to be delivered to the farmer explaining the time and intent of the visit. At the beginning, we can see there will be a lot of consultative process taking place. In order for the consultative process to take place, two people have to be there. If a ministry official shows up at the farm and the farmer isn't home at that time, nothing happens. So it will be good initially that meetings are set up between the two and that there's some sort of written process that takes place there.

The fourth one is costs. We see that being separated into two areas. One of them would be administering the act. That's no different than the pesticide courses and all that sort of stuff. There will probably be protocols set up as to what will be required of us as farmers, what we need to do, what we have to fill out and who we have to send the information to. The second one is the capital costs associated with upgrades to meet the requirements of the act. We assume—and maybe we're assuming too much—that this will be over a longer period of time and not an overnight issue. That assistance needs to be provided in both areas.

The fifth one is that this act supersedes all municipal bylaws. We're pretty fussy on that one because basically we feel that in order to be competitive in the sheep industry, we all have to abide by the same rules.

The sixth one is the competitiveness of products from out of the province or country that do not have a Nutrient Management Act. In other words, if lambs are coming in from Alberta and these individuals in Alberta do not have to fulfill a Nutrient Management Act, that puts us at a disadvantage cost-wise.

In conclusion, we would like to thank the committee for the opportunity to talk to you and we would like to be involved in the consultative process when the regulations are drawn up. I understand the law doesn't state that that has to be the case but we'd certainly like to be given the opportunity to be involved in the consultative process when the regulations are drawn up.

The Chair: That gives us a little over two minutes for each party. We are now back to the Liberal Party.

Mr Peters: Thanks very much for your presentation. I guess as nutrients go, sheep nutrients are probably some of the more popular as far as taking it off the farm for somebody to use it in their home garden. We're going to regulate you on your farm with your nutrients. Do you feel, though, that we need to go further and regulate the use of nutrients on golf courses or garden supply centres that may be buying your manure to repack and sell? Is there some need for us to look beyond just the spreading of nutrients and how you handle your nutrients on the farm to any other uses of nutrients?

Mr Stutzki: I don't think I quite understand. Are you trying to say that if a golf course is applying sheep manure on their—

Mr Peters: Exactly. Should they be regulated as you are regulated?

Mr Stutzki: They're using it as a form of fertilizer and I'm quite sure that would fall under—I don't know where that would fall under in terms of how they're using it. I don't think they would use sheep manure as a fertilizer anyway on a golf course. They would use it maybe in a flower bed but they wouldn't use it to green up their greens. It would be a little lumpy. Do you know what I mean? When you go to Zehrs and buy your sheep manure in a bag, you're buying it as a soil conditioner, not as a form of fertilizer. The fertilizer value in it is fairly low compared to what would be in a fertilizer bag.

Ms Churley: Do you think that a municipality should have some powers? This law as it stands now supersedes any municipal bylaw if there are specific problems with tainted water or concerns about that, or there's a large tourist industry. Do you think the municipality should have some say under the Planning Act in, for instance, the addition of new farms or whatever?

Mr Stutzki: We're concerned with that basically stating that right now. If everybody's grandfathered in, it would limit expansion to a certain degree because you would put one municipality at a disadvantage versus another one. What you might be doing then is inviting industry into certain municipalities because they do not

have those bylaws in place. So basically you're opening the doors for a certain industry to come in and then they will be forced to put bylaws in place to slow that process down. But if we're all on the same page, you eliminate that whole problem.

Ms Churley: But could you see some flexibility within it somehow so that specific soil conditions or differences can be addressed locally?

Mr Stutzki: I think that will be looked after in the nutrient management plans as it is, because they're an on-site specific piece of information.

Mr Johnson: I just wanted to thank you for taking interest in the commitment to be here today. I wanted to go into item 4 on the costs a little bit. Farmers aren't the only ones who pay taxes, but they do pay taxes. The costs, both for the administration and the capital costs—and I don't have trouble with the administration of the act. But you're saying the capital costs associated with upgrades, and I assume that would be by the provincial government. I wanted to know, as a sheep farmer who doesn't confine liquid manure, do you have any problems paying, for instance, hog farmers who have insufficient or inadequate or defective liquid storage to upgrade?

Mr Stutzki: Yes. Our manure is unique in the sense that it's a fairly dry manure. But manure is manure, and, yes, we have to stockpile our manure and we do also have liquid forms of it. So I think a hog farmer and a sheep farmer do have things in common, in that we will have to handle it no different than they will. We will have liquid portions of our manure that we are going to have to get tankers in to pump out because of surface runoff, unless we put everything under a roof.

In terms of subsidizing, that is huge question. I don't think it'll come down to that, because I think a hog farmer himself will realize that in order to be in business, he has to do certain things, and a sheep farmer has to do certain things. That's just the nature of the business.

The Chair: On behalf of the committee, we want to thank you, Mr Stutzki, on behalf of the sheep marketing agency.

Mr Stutzki: You're back on time.

The Chair: Yes. We're right on time.

RESIDENTS OF EAST LUTHER GRAND VALLEY TOWNSHIP

The Chair: The next delegation listed: residents of East Luther Grand Valley township. Good morning, sir.

Mr Peter Turrell: Good morning. My name is Peter Turrell and I'm a resident of East Luther Grand Valley, Ontario. I'm representing all the people sitting on this petition here. I'm speaking on behalf of them more because of my background; I can understand a lot of the things going on in our community. I am not a professional lobbyist.

I have a background in soil sciences and have grown up on a part-conventional, part-organic farm. It's with this knowledge that I am going to try to compress the wisdom of the ages into the 15 minutes you've allotted

me to speak. It's imperative that you review the provided written material in order to fully comprehend the complexity of this information, particularly those committee members with no training or knowledge in these collective sciences. Much of it is two-sided copies just to reduce the volume of paper.

I have always had a close affinity for the place I live. I know heaven is already under my feet. I have had countryside scattered with farms on one side and the Luther marsh wilderness sanctuary on the other. The wind here always was beautiful, fresh, not the stench of human excrement that I and all my neighbours have had to endure for the last four years. Summer in the country with a gas mask: put that on the travel brochures for scenic Ontario.

I now contend with a leaking dump, a dynamite storage facility and human excrement, all improperly managed and unmonitored. See my enclosed map on page 8.

I do not deny that our society has created a need for these evils. But if they must exist, should they be placed side by side saturating the headwaters of the Grand River? It's a water supply for such a broad region. Should they be unmonitored and the results be unposted? Should \$4,680,000 of our tax money be spent trying to manage the Grand River watershed even though the GRCA board voted against sludge dumping around its source?

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If I thought sludge had any long-term gain other than a temporary solution to one of Toronto's and surrounding cities' many problems, I might endorse this for the good of humanity, but I and any human being who sees beyond tomorrow must see this as absurd.

The water-borne migration of pollutants is well known. The dump next to me is known to leach at a rate of 14 centimetres per year. The solution was to expand the dump boundaries. Burnside and Associates can confirm this. The mobility of heavy metals is also known. You can visit the Cornell University Web site provided in my references.

An overlapping of disciplines must be adopted in order to see a full and clear picture of cause and effect.

First, the concept that sludge will not enter the water table is absolutely criminal. I have witnessed first hand sludge being spread and landing in the Boyne River—see my map. This was reported and nothing done. The field behind the site has raw sludge sticking in the air as we speak, and I'll gladly provide a tour to anyone who wishes to attend. It was spread on straw which cannot be properly plowed under. Sludge falls from the tires as they turn, depositing it too close to watercourses. There's an over-application when the field is full and the truck not quite empty. There's no check for water table depth or uncapped wells or underground drainage—again, see my map. Add to this the inadequate land base for large-scale animal production, and a disaster awaits.

Most people will answer that with better rules, management and better application techniques, we can solve

these problems. Of course the reality is the inspectors arrive too late, if at all, the fines are inconsequential and more effort is being put into the organization of boards than their purpose. I believe everyone should be given a clearer understanding of the principles of the science involved in this.

The only sewage process with a known guaranteed pathogen-free sludge is batch thermophilic digestion. The entire amount of sludge is maintained at 50 degrees Celsius for 13 days. To the best of our knowledge, pathogen destruction follows as in the chart I've provided for you.

To the best of our current knowledge, no pathogens in excrement can survive 65 Celsius for more than a few minutes. These are important statistics, along with the enclosed charts I put before you, because bacteria such as *S. typhi* or, in English, salmonella typhoid, can survive in soil for up to 400 days at 22 degrees Celsius. Since the ground temperature of the earth is generally regarded as 10 degrees Celsius below the surface, when of course not frozen in our winter, the potential for viral genocide becomes very real. Even pinworm eggs can be inhaled in the future dust from these farm fields. Many bacteria can survive two years in sludge and over a year in soil.

Since the action of cultivating a field will bring this all back to the surface for the wind and rain to redistribute at will, I question the wisdom behind these programs. It has not been that long since the medical community discovered the link between washing hands and infection. After reviewing my pathogen charts, tell me why surgeons wear gloves. Please read carefully the enclosed three pages of notes from Dr Peter Cole, the former officer of health for the region of Halton-Peel.

Perhaps you can now start to understand the impact your decisions will have on other disciplines. While our tax money supports the printing of promotional brochures, like the one in my hands for biosolids, will our medical costs need to increase?

Why is the government supporting biosolids? I understand the term "soil sciences," but just what does the marketing word "biosolids" really mean? I believe it was created to whitewash the word "sludge" and justify bringing it into my backyard to avoid incineration smells in Toronto and to save their taxpayers money.

Of course, no matter what I say about sludge, it must be disposed of. I am a believer in the return of nutrients to soil. I have spent a good many years of my life studying the design of composting toilets and believe it's possible to find a solution to sludge dumping through the method of thermophilic composting.

Thermophilic composting happens naturally when a balance of carbon and nitrogen is introduced to oxygen. When this mixture is achieved, the compost pile quickly rises to 55 degrees Celsius, effectively killing pathogens. Compost also possesses the unique ability to lock up heavy metals. It's even quite feasible to compost diesel fuel or dynamite.

It just so happens that our tax dollars are spent around the country trying to control turpentine runoffs from sawmill piles when in fact mixing the sawdust with

sludge creates a wonderful carbon-nitrogen mix. This by-product is healthy, odour-free soil, far advanced in nutrient content than sludge. I have a sample here in a bag for you to inspect at your convenience. You'll notice there's no odour to it. As long as the time-temperature factor is maintained, a safe product can result. Compost also removes from the hands of the public the improper use of sludge on food crops and forage crops. I'm sure you know that putting it on potatoes and carrot and other group crops is a direct source of contamination to humans.

Fabulous amounts of research into compost have been compiled over the years. Certainly, I think a review of the work of Sir Albert Howard and Dr Sir Robert McCarrison is in order. Both men studied the Hunzas of northern Pakistan, a people who have always composted their excrement far away from water sources. These amazing people routinely live healthy, disease-free lives to the age of 120 years. It seems odd to me that no one seems to have taken notice of the turn-of-the-century findings of such famous men. Both of them found a direct link between soil fertility and public health.

We're a big country with no history in concentrated resource management. Our answer has always been to expand our boundaries. This is no longer a viable solution. We must now look to more experienced countries for a knowledge base. Perhaps Toronto may wish to promote a green economy by going into the compost business. I'm sure that this would have much better long-term results for places like Kirkland Lake than garbage. I've enclosed a paper on Austin, Texas, and their compost sales program. Of course, such a program will require the rerouting of toxin out of sludge in the first place. Compost can handle small amounts of heavy metals but not the unknown poisons and the unknown quantities we are currently receiving from industrial dumping in sewers. I suggest you also check the article in the Ontario Dairy Farmer, May/June issue, 2001, for information on cadmium poisoning, and link this with organochlorines, estrogen levels in soil and mad cow disease. "Toxic soup" is another term used to describe these conditions.

As a government body, maybe you could start by lifting the ridiculous roadblocks for people trying to implement alternative black water and grey water systems. Separation of these two systems would immediately alleviate most septic problems. This system at least has the potential to achieve sustainability, a word not to be overlooked in every aspect of these studies.

As our system stands now, I feel we must immediately implement some of the following rules, not guidelines:

(1) We must follow the tactic of prudent avoidance until better research and methodology are adopted.

(2) Provide enforcement and real fines, not fines equal to speeding tickets, along with jail time for environmental criminals. These offenders could be tried in court for public genocide, since their actions are deliberate.

(3) Adequate inspection: a builder must have an inspector on site at every stage of construction; however, there is none required for the spreading of this.

(4) Test holes to determine water table depth. The requirement is 0.9 metres above a water table, but who is checking the depth of tile drains in fields?

(5) Adequate land base for livestock operations.

(6) Define how enforcement will be litigated.

(7) Control on major landowners.

(8) Test wells before and after applications. Be sure to include chemical analysis in this.

(9) Water, garbage and nutrient/pathogen management should be overseen by the same body. Land planning should begin at a watershed source.

(10) Put power back to municipalities. They know their area and are in a better position to manage it. Provide them with unbiased expertise.

(11) Post sites. If you want to build a structure, my neighbours must be notified in advance, giving time for objection. In this manner, unknown information like uncapped wells or other possible problems can be brought to the forefront before it's too late. Post what is in the sludge: the chemical content, the hospital waste. See my attached map for uncapped wells with sludge dumped on top of them.

(12) Remove incentives like putting out promotional brochures to help private companies like Terratec get rich. I'm not sure that they would find it so easy if they did not offer free plowing jobs to farmers.

(13) Allow smaller communities first option on the land base. My entire county is in a panic. With Toronto sludge taking up the available land, there's nowhere to spread our own problem. At least we know the content of our own waste, as there's little industrial contamination.

(14) Ban out-of-county/township cash croppers from dumping in areas where they don't even reside.

(15) Separation of chemicals at the source from sludge: continually analyze chemicals entering the sewers. Penalize these companies.

(16) How about a guarantee of quality, the right of landowners to sue the government if their standards and approvals for safety prove to be false in the future, like urea formaldehyde, for example?

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The synopsis of failure on current systems is overwhelming. It ranges from inadequate cleanup from truck spills—see my enclosed articles of the main street of Grand Valley—to random reduction of safety margins. It would appear that current site certificates put this from 90 metres down to 15 metres. Where are the current sludge dumping chemical analysis records being kept? I could not find them. Does anyone truly know what is in it? It should be publicly posted, but not in some obscure intellectual journal. I wonder if the people of Toronto would be so quick to endorse sludge dumping if they knew how country people were beginning to look on them with disdain.

I've listened long enough in silence as the Walkerton inquiry has tried to rationalize genocide. Whose turn is it next? How can we believe in a civilized nation when its residents live off the backs of their grandchildren? As a committee, you bear an enormous responsibility for the

future. I call upon you, Tom Prins, Toby Barrett, Carl DeFaria, Marcel Beaubien, Michael Bryant, Gary Guzzo, Peter Kormos, Lyn McLeod and Tina Molinari. When our grandchildren read the history of our time on earth, will they be proud to carry your name or mine? Should we enact a sacred oath to protect the earth, air and water? Perhaps the committee should also include a body of religious and spiritual leaders to decide if it's polite to dump raw shit on my heaven. Time always reveals the truth.

Thank you for your time. I'd gladly offer any services in the future, if you'd like things defined. I know it's very complex.

The Acting Chair (Mrs Tina Molinari): We have less than one minute per caucus. I'll start with the NDP.

Ms Churley: Thank you for your presentation. There is no time to delve into serious questions here. I just want to say to you that I've heard about the thermophilic before.

Mr Turrell: Thermophilic composting, yes.

Ms Churley: I fully support your contention that the way we're dealing with sewage sludge is a problem. Burning it is a problem. And I'm hearing more and more from people in the country that the way it's being put on your fields is a problem and we have to find another solution.

Mr Turrell: We have no option right now. It seems to be the only one, even though it's imperfect.

Ms Churley: So we're going to have to find better solutions to that.

Mr Turrell: Unfortunately, none of the people in positions of power or positions of education seem to be looking at this. They're looking at very complex systems that have put us in this place in the first place.

The Acting Chair: For the PC Party, Mr Johnson.

Mr Johnson: Peter, thanks for coming and giving us your opinion and views. You are saying that sludge from sewage treatment plants should be treated.

Mr Turrell: Absolutely. It is in most countries of the world now. Many of these articles I have provided you with are from the EPA in the United States and from around the world—Scotland, everywhere. Soil science is not a new science. It's absurd that you don't think it's going to run downhill into water tables.

Mr Johnson: Yes, and I don't want to get into the fact that there are huge cities that aren't even treating theirs. But I wanted to know if your opinion is the same on animal septage as it is on human septage. In other words, should all the manure that is produced, whether it's hog, chicken, sheep or whatever, be treated before it's—

Mr Turrell: Absolutely. One of the things is that in the old days farmers put their piles of manure out. They sat for a while. They composted themselves. That's what the rising steam was. The thing that people from Walkerton have neglected is that they're blaming cattle when in fact *E coli* is present in any kind of manure, human or otherwise. It doesn't matter; it's all the same thing.

The Chair: The Liberal caucus.

Mr Peters: In yesterday's Toronto paper there was a big headline that the sludge program is going to be harmed by this very bill that we're deliberating. I don't know if you saw that in yesterday's Star or not.

Mr Turrell: No, but I think it's true.

Mr Peters: This is part of the science that we've heard from a lot of presentations that have been made to us, and there are some things we understand and there are a lot of things we don't understand. One of the things I think we really need to do is better understand it. What gets me is, if people in Toronto are forced to live with the health impacts of burning sludge, we don't know what the impacts of spreading the sludge are.

Mr Turrell: Actually, we do.

Mr Peters: Well, we need to better understand it. Anyway, this bill that we're debating right now is raising some issues in Toronto. Could you expand on point 7, on page 5 of your presentation, control on major land-owners. What do you mean by control on major land-owners?

Mr Turrell: I've given you a map of just a few miles around my own personal residence showing major uncapped wells, creeks dumped right on top of, and you wonder where the water source comes in.

The problem where I live is that we now have a lot of major landowners and blocks of land being bought by investors etc, and they're cash-cropping. Because they own 1,000 or 2,000 acres, they have a giant impact on an area of environment. When one farmer here and one farmer 10 miles away is spreading it, it's one thing, but when a man does a 2,000-acre block, that becomes an imminent problem.

The Acting Chair: We're out of time. Thank you very much for your presentation.

TOWNSHIP OF SOUTHGATE

The Acting Chair: Our next presenter is representing the township of Southgate, Ralph Winsdale. Welcome. Begin when you're ready.

Mr Ralph Winslade: For the record, my name is Ralph Winslade, not Winsdale.

The Acting Chair: My apologies.

Mr Winslade: Thank you for the opportunity to speak to you today. I'll try to highlight the written submission as briefly as possible.

I am a councillor and chair of planning for the newly amalgamated township of Southgate, stretching across two thirds of the southern border of Grey county. Our council is proud that agriculture is our number one industry. Like the province, we are seeking policies that will allow agriculture to prosper and grow with minimal impact on rural neighbours who do not farm.

We welcome the provincial legislation for two reasons: to provide a level playing field for our farmers who operate livestock farms more similar to our neighbours in Wellington county than our friends in our own county of Grey, and because the province has more resources to address the issues. However, we do not care for the thought of delegating approvals to the private sector. It

cannot provide prompt, effective service all across Ontario.

In the update of the minimum-distance formulae, there will be a challenge to harmonize the new regulations with local zoning bylaws, and vice versa. We encourage the retention of the single factor for less than four neighbouring houses and the double factor for three or more. This is needed until technologists solve the ventilation odour concerns. I believe that within five years the technology will solve it, but it's not here today.

If local municipalities are allowed to have a buffer zone, such as 500 metres from the urban boundary with no intensive livestock, it should be restricted to those with municipal services with growth potential. The buffer could be the greater of the 500 metres, for instance, or two times the minimum distance separation factor. Hamlets are unlikely to grow and do not need the buffer.

We see problems with the current rules requiring two times the setback from rural cemeteries. Some may have one burial per year; others have had none for 100 years but are shown on official plans even though closed by the Ministry of Consumer and Commercial Relations. We also have concerns about using the two-times factor with rural commercial that is ancillary to farm operations.

Our council is continually dealing with concerns about biosolids from Toronto—sewage sludge, if you like—being spread in our township. Our citizens and council are more concerned about this than manure. We had an exhaustive study on biosolids this winter, and current research highlights the health dangers from the pathogens not killed by digestion. If Tom is available, I have a copy of a report on biosolids for the committee.

While a moratorium would have been preferred, we are considering passing a bylaw to require a nutrient management plan before a farmer is allowed to spread biosolids. However, if you persuade the Owen Sound office of the Ministry of the Environment to require a nutrient management plan as a condition of a certificate of approval, we would not have to pass our own bylaw. Naturally we think the new legislation implementation timetable should address this issue first instead of addressing manure first.

Septage spreading on licensed sites is not a big issue with our ratepayers. It would be impossible for our Dundalk lagoons to handle all the septage produced in Southgate. We have just added significant capacity to the system but it's not designed to handle concentrated wastes from septic. The province may have to fund regional digesters to accommodate septage.

Septic operation can have a major impact on water quality. Many are outdated; others are not well managed. We believe this is the largest single source of drinking water well pollution in hamlets and other rural housing areas. Southgate is currently considering a septic re-inspection program. That, and manure management, is required to minimize the impact on water supplies and to create a better image of animal agriculture.

1020

Winter spreading of manure and biosolids will have to go because of public perception, probably more so than

because of science. Irrigation of liquid manure is questionable at best. Best management practices such as pre- and post-cultivation and spreading liquid manure on cracked clay soils or zero-tilled soils are needed. Maximum manure storage capacity is needed for safety. New feeder hog barns have a 365-day capacity and this should become the goal of all liquid systems. Farms with solid manure systems can likely live with 200-day storage because there are smaller volumes and cattle are usually in paddocks in the summer.

There is a myth that large-scale operators are bad operators—not so. Research from the George Morris Centre shows that they are better equipped to spread manure in a few days than smaller ones. When spreading, a reasonable distance to wells and watercourses must be set.

Last year, council's planning committee made a list of suggestions on manure management. A copy can be provided for your information, if you wish. I couldn't find it in my files this morning.

Groundwater monitoring around liquid manure tanks and on watercourses is an item of interest. However, the protection of wellheads may not be sufficient to be sure where contamination came from. These are great ideas, but are affordable, foolproof monitoring wells available?

The use of best management stewardship practices must be encouraged. Runoff from yards and storages is a bigger issue with conventional systems of all sizes than from liquid systems. Many family farms have cemented yards and have built retaining walls to contain seepage. However, old-timers and hobby farmers often, in full view of public roads, have done little. Progress must be made here.

Much of the phosphorus contribution from farmlands occurs from erosion. Grass waterways and grass buffer strips along ditches and creeks are a must to minimize erosion. They will also soak up some surface runoff of water-soluble nitrogen.

Stream bank erosion from livestock watering poses as much danger of nutrient overload from soil erosion as it does for damage to fish habitat that people get all excited about. Fencing is highly desirable.

How do we meet the stewardship challenge? Public financial assistance to farmers making changes for the public good with no immediate payback to themselves is essential. Infrastructure grants, such as the Wellington county program coordinated by the conservation authority, are an excellent start.

If I might change hats, I would like to make some personal comments from my experience as an agrologist. I have some concerns. Ontario farmers compete in a global economy. I believe in better nutrient management but it must be done in a cost-effective manner to allow our farmers to compete. If we want to retain the livestock industry in Ontario, its future is at stake. There are few packers left. There are no longer enough small farms to meet the needs of these packers. Hence, more large farms are essential to meet the demand. Our policies must encourage livestock retention. A major plant closure will

see livestock production move to western Canada, where it is welcomed.

The factory farm is a myth spread by animal rights activists. You cannot grow animals and plants the way you build widgets. However, farmers have adopted industrial processes for materials handling of crops, feeding systems and manure handling. There has been a huge substitution of capital for labour. They also share the industrial goal of "quality is number one." Family farms continue to dominate. Large corporations do not operate farms in Ontario. Farms are managed by families who own or borrow the capital required to operate. These farms seek market assurance. Dairy and poultry producers acquire quotas. Many crop and pork producers contract at least some of their production to assure themselves of a market. A degree of corporate control is vested through these contracts.

How will you define a corporation? A majority of large family farms have become incorporated on the advice of their accountant and lawyer. This has usually been done to accommodate additional family members, mainly the next generation. It appears that these farms will have to pay much larger fines. Is this fair?

Two-career farmers are common. Whether it be economic necessity or career choice, they will continue. The small ones, slightly larger than a hobby farm, with limited resources, will be more of a problem than a larger farm with adequate resources. Contrast a struggling beef producer with a friend of mine. He is a workaholic, driven to grow. In addition to operating a busy construction company, he grows 300 acres of cash crops and feeds 200 hogs in a modern facility. His retired father helps part-time.

My personal comments are meant to point out the diversity in the industry and to remind you that our farms are operated by families, not corporations. Your decisions can impact on the future of Ontario's livestock industry as much as on water quality. Thank you for the opportunity to share these thoughts.

The Acting Chair: We have approximately a minute and a half for each caucus and we'll begin with the PC caucus.

Mr Johnson: Thank you very much for taking the time to be here and contribute to these hearings. It would seem to me that we are doing about three things differently with manure now than we used to do. One is, as the previous presenter said, we used to compost it, and I think that's a fair thing. Another thing is we've added systematic tile drainage to a lot of crop land. And I guess the other thing is the addition of drugs which will cause pathogens in discharge. The previous presenter talked about composting and so on. Would you give me your thoughts on the other two: the systematic tile drainage and how it would accept manure, and possibly the pathogens that would be an ingredient of them.

Mr Winslade: The systematic tile drainage is a benefit to agriculture simply because you've got better soil conditions to receive manure. The only situation where it's a problem is with liquid manure or liquid biosolids.

There's hardly any difference between the two from a nutrient point of view. As far as tile drainage is concerned, it will not likely penetrate to the tile drains on any loam soil. It would have to be very sandy soil where it would penetrate that deep. Normally where there's a practice such as zero tillage, where the soil is very open and there are worm holes down into the ground, you can prevent that penetration simply by cultivating before you spread liquid manure or liquid biosolids.

The Acting Chair: For the Liberal caucus, Mr Peters.

Mr Peters: There's one point you made that really jumped out at me and it comes out partially because I come from a community—St Thomas—that composts, and we have a centralized composting facility. Every two weeks I put my big green box out and the garbage truck comes by and takes everything to the centralized compost facility. Great.

We know this is going to cost a lot of money for the farms—every farm. We've heard figures from \$30,000 to \$80,000 a farm. Maybe some of them are going to be higher than that.

You make a point about central digesters, central composters, and that was dealing with the sludge. Instead of investing all this money and telling each farm that they've got to make the improvements, is there some merit in looking at a regionalized, centralized composting area, a digesting area? The farmer trucks his liquid manure to the site, treats it, and takes a clean load back to his farm from which we know the pathogens and many of the metals have been removed. Instead of doing it on-farm, is there some merit in looking at some sort of a centralized program on a province-wide basis?

The Acting Chair: Mr Peters, you've taken more than 90 seconds to ask your question, but briefly, Mr Winslade, if you would respond.

Mr Winslade: It's very difficult to give less than a five-minute response to a 90-second question.

The Acting Chair: I appreciate that. We're in a time constraint.

Mr Winslade: But I can't do it. OK. I hate to see biosolids and manure being mixed together in the same composter. Guelph has an excellent compost system but the product can still not be sold because of the metal content in the compost to start with. It can only be spread via a certificate of approval from the Ministry of the Environment and they're currently using it to cap off their landfill site.

The Acting Chair: Next will be the NDP caucus.

Ms Churley: Very briefly, you say there are no factory farms, that they do not exist. All of us, I'm sure, have received a lot of letters from a lot of people, especially in Huron county where there have been some problems. You did mention the problem is emphasized because, if there is a spill, the bigger the farm, the magnitude is much bigger than on a smaller farm. But we have had a lot of letters from people who are saying that municipalities need to be able to have some control over the number of those large farms in their communities. What do you think of that?

1030

Mr Winslade: I am totally opposed to that. If Mr Peters's concept was ever to work, in order to make it work you would need to have a huge number of barns in a 10-mile radius, and then it might be affordable to put in composters or even to get into methane digestion because they are concentrated. That's the only reason it works in Europe, as Mr Morris suggested. It's because there are enough hogs in a small area that you can pipe it there. You can't afford to load it on a truck and take it in and truck it back. You can't even afford to truck gravel more than a couple of miles. To do it with manure doesn't make sense. It's got to be very concentrated.

I think it comes back to planning. We had better plan to keep people away from good farmland—no severances. Keep them out.

The Acting Chair: Thank you very much, Mr Winslade. We've run out of time. I know it's a subject that requires a lot of discussion. We appreciate your coming here this morning and sharing your views with the committee.

Mr Winslade: The only concern I have is that there was no coffee break this morning and I'd like to speak to Wild Bill Murdoch for a minute, if I could.

The Acting Chair: Duly noted.

GREY COUNTY CATTLEMEN'S ASSOCIATION

The Acting Chair: Our next presenter is from Grey County Cattlemen's Association; Lloyd Kuhl, director. Please come forward.

Mr Lloyd Kuhl: The Grey County Cattlemen's Association appreciates the opportunity to comment on the proposed Nutrient Management Act, 2001. We appreciate the considerable work and consultation with varied spokespeople across the agricultural sector as this act was being drafted. We hope our voice will be welcomed in the future as the guidelines are proposed.

A healthy, viable agricultural industry in Grey county which is attuned to this act and its associated regulations aimed at better environmental protection is crucial. If this act doesn't allow for agriculture to prosper, the small hamlets, villages, towns and the city of Owen Sound will be impacted. With higher standards likely to be expected of all agricultural producers in Ontario, there must be financial assistance to help farmers meet the new standards. The environmental farm plan program has been well supported by the farming community in Grey county. We support permanent funding for it, as the EFPP would be a good program for delivering funding related to new regulations for agricultural operations.

In Grey county, we have in place a nutrient management review committee with county government, public and farmer representation that reviews all proposed buildings or additions where liquid manure is to be handled. We believe committees of this type are the appropriate first step for citizens with concerns about

environmental practices on farms and for farmers wishing to expand or change their farming enterprise.

In Grey county we doubt that the Ministry of the Environment is the appropriate body to enforce this act. In the past when local municipalities and citizens have voiced their concerns about heavy metal concentrations in sewage sludge trucked from urban centers being spread on agricultural land in Grey, the MOE has overruled. They appear to view agricultural land as a safe place to spread and dilute the problem rather than as foodland where anything applied will become part of the quality food products our consumers expect and deserve. We therefore believe enforcement should be the responsibility of either OMAFRA or an independent third party.

The Grey County Cattlemen's Association is pleased that the new provincial rules defined by this act will be consistent across the province and supersede municipal bylaws. At present in Grey, and in neighbouring counties, we must deal with a hodgepodge of municipal regulations or moratoriums that affect what can be done at one location versus another.

In Grey county we have predominately small farms with less than 50 animal units and with low-density animal units per acre. These farmers are utilizing 100-year-old bank barns and pasturing is the principal use of their acreage. Most manure is dispersed as the livestock graze, with a small accumulation of dry manure during the winter months. The environmental risk from these operations is generally low. So we feel there should be a minimum number of animal units and a minimum animal-units-per-acre density before participation under the act is mandatory. As these operations are purchased by larger farming enterprises, or renovations or new structures undertaken, the required necessary documentation would be completed prior to getting the required permits.

The requirement of a licence to spread a few loads of dry manure from such operations with many acres available is a concern. The total nutrient value of the manure may be less than the fertilizer applied to some rural estate lawns each year. The requirement that all documentation and records related to this act, including management of materials containing nutrients, be kept in electronic format is also a concern. Most of our small farmers are older and don't have computers, while some such as the Amish community don't have hydro. We feel exemption for small operators is better for everyone than non-compliance supported by the view that the act is inappropriate in these cases.

Grey County Cattlemen's Association supports reduced access of livestock to watercourses. We are confident that it will improve bank stability as well as improving the water quality available to the livestock and wildlife utilizing it. In the cases of fordable watercourses such as creeks and ditches which dissect farms, functional water crossings and access to water for livestock are a necessity.

In Grey county considerable positive work has been done improving water quality in our surface water-

courses. For example, along the Bighead and Beaver Rivers, most livestock have been fenced away from the watercourse, allowing a buffer strip along the watercourse. Water-crossing zones have been stabilized using concrete slatted flooring in the stream bed so that the livestock can't disturb the stream bed when they cross. The placement of concrete slatting in the stream bed does not restrict water flow in either flood or low-water times. Crossings at the stream bed grade are less intrusive than either low-level or high-level bridging because in flood times the water flow, may wash away the bridging structure or the structure dams or reduce the water flow and the higher water above the structures erodes the banks, creating a new bank erosion problem. These stream bed crossings provide a dependable limited-access point for livestock to water without harming the banks or the water quality. Therefore they should be one of the watering options allowed because in some locations they may be the only option that is functional and dependable.

In conclusion, the Grey County Cattlemen's Association supports a continuing, sustainable, environmentally safe community for our families to live and work. The Nutrient Management Act must supersede municipal bylaws so that the requirements are consistent across the province. The guidelines and regulations must be realistic, functional, flexible and feasible so that farmers can continue to operate in a viable manner whether they are large or small enterprises. Finally, with the higher standards expected, we must emphasize that there must be financial assistance to help farmers meet the new standards.

The Acting Chair: We'll start with the Liberal caucus.

Mr Peters: This came up briefly yesterday. There are a few of us who have ridings with an Amish and Mennonite community in them, myself included. The eastern part of my riding has a large Mennonite population. You touched on the technology standpoint in dealing with this legislation. Are there any other areas—and I don't know whether you have any experience—where we're going to have to deal with cultural issues possibly as a result of this legislation?

1040

Mr Kuhl: Not that I can think of. I know that the Mennonite or Amish communities have often used religion as a basis for trying to get exemptions. I don't know.

Mr Peters: It's something we're going to have to take into consideration.

Mr Kuhl: The point that we were trying to make is that many farmers aren't computer-literate, that many don't even own a computer. To ask them to, and for the law to state that they must, file electronically like that, I think it shouldn't be in the law, that it be different options.

The Acting Chair: The next speaker is from the NDP caucus.

Ms Churley: I just wanted to ask you about the present situation. There are volunteer nutrient management plans in existence now, but because it's volunteer, as I understand it, there's no mechanism in place to make

sure that those plans are actually carried out. It seems to me that basically what this legislation is attempting to do is to make sure that what's already been in place on a volunteer level for some years is brought into legislation, and to make sure that those plans are registered and being carried out. Is that your basic understanding of the legislation?

Mr Kuhl: Not entirely. If you are in our county now and you have a nutrient management plan, you have to do soil tests every year, and every three years it's reviewed. So once you're in the plan they virtually know what you're doing.

Ms Churley: Are there people who come and check and inspect?

Mr Kuhl: We go by soil tests.

The Acting Chair: We'll move now to the PC caucus.

Mr Murdoch: Thanks, Lloyd. I certainly appreciate your brief today, and it pretty well says everything. I can't say a lot more about it. I appreciate the fact that you think OMAFRA should be looking after this, and I agree with that.

The one thing I am glad you pointed out is that if there are going to be restrictions put on farmers and things we have to do like fencing creeks and that, there has to be assistance for that. There doesn't seem to be a lot there now, so we're going to need something like that. I'm glad you emphasized that at the end, because if these rules are going to come into effect, there are a lot of small farmers who couldn't afford to do that, although a lot of people are doing it now on their own.

There's one thing that's been brought up and hasn't been mentioned here yet today on the nutrient plans. Some people have the idea that the people who are having the plan have to own all the land. So they're saying you can't rent land to put your manure on. No one's mentioned that here today, and I just wondered what you thought about that. What they're saying is that if you are going to produce so much waste, that you have to own all the land where you're going to put it.

Mr Kuhl: No, I don't believe that you would have to own the land, because one can't possibly afford to own all the land at the price of land. It's just not viable.

One thing that the committee should know is that I sit on the peer review committee for Grey county and our last plan that we did filled a binder about an inch and a half thick. So these are very detailed plans. Now, unless you bring in a different type of a plan—they're very complicated and detailed.

Mr Murdoch: As usual, Grey and Bruce counties are ahead of most of the province anyway, so this committee would be well to look at what they have to say here today.

The Acting Chair: Thank you, Mr Kuhl, for taking the time to make a presentation here this morning before the committee.

ROBERT SCOTT

The Acting Chair: Our next presenter is Robert Scott. Please come forward. Mr Scott, you have 10 minutes to

make your presentation, and that includes questions or comments from all three caucus members. Begin whenever you're ready.

Mr Robert Scott: My speech is quite short, so we'll be able to have a coffee break right after.

Good morning. My name is Robert Scott. My wife Wendy and I have been egg producers in Bruce county for over 30 years. Thank you for coming here.

I think it's fair to say that Grey and Bruce counties have led the way in calling upon the province to enact new rules on nutrient management. It seems like every resident from Teeswater to Owen Sound to Dundalk has raised concerns over the way in which we use manure and how other fertilizers are handled. Our concern stems from the tragedy, which in some cases has evolved into public outrage. Many residents now object to some farming practices and in fact have succeeded in delaying a new operation in Huron-Kinloss.

I share some of the same concerns as both a lifelong member of this community and as a farmer whose livelihood relies on a healthy and sustainable environment. It's my hope that Bill 81 will protect our natural resources and put to ease many of the concerns raised in Grey-Bruce counties.

We need clear and consistent standards to ensure that our natural resources are preserved and protected, and all farmers must conform to these standards to ensure the legislation has the desired outcome. Yet the legislation must take a balanced approach, with reasonable and achievable goals, because the future of this community, like all rural communities, cannot afford to regulate farmers out of farming. As such, the government must consider many proven practices that reflect the ministry's goal "to promote the economic development of rural communities."

As with many egg producers, I have a nutrient management plan in place. However, I recognize that this legislation will require a more formalized and universal system. Because investments will be required in education and capital improvements, it would be wise to set a minimum of five years to implement each and every practice under Bill 81.

It's important to understand that manure is not a waste product but a valuable fertilizer and conditioner of the soil. Provided that farmers handle it in accordance with a nutrient management plan, new regulations shouldn't limit the use of poultry manure based on the size of my farm. Common sense dictates that it's not how much fertilizer a farmer handles, but how the farmer handles the fertilizer.

I have lived in this community all my life. I've operated a farm for the past 30 years. I know that farmers produce a lot more than food. We produce communities. Laws that place additional burdens on farmers also place additional burdens on rural communities.

Let's focus on preserving our natural resources, promoting harmony between all residents of rural Ontario and protecting jobs in these local communities. Thank you.

The Acting Chair: We have approximately a minute and a half for each caucus. We'll begin with the NDP caucus.

Ms Churley: I liked the end of your comments, the fact that we need to try to create harmony in communities. To that end, this legislation to date will supersede municipal bylaws, and in some municipalities there's a lot of disharmony between some of the cottagers and other people who live in the area and the farm community. Judging from the letters and calls I received, in some cases it's very volatile; the people are very upset and angry. Given that, if in fact the legislation goes through superseding municipal bylaws, how do you see the community coming together and resolving some of these outstanding issues?

Mr Scott: That's very difficult. It's going to be hard to do that, but I think with hard work and if the proper things are in Bill 81, it will come together.

I live in an area where there's a strong coalition along Lake Huron. They had a presentation yesterday that you likely heard. They're very concerned about a present operation that's being proposed. I just hope they can see that we're trying our best to do the best we can, especially with this Bill 81.

1050

The Acting Chair: The next speaker is from the PC caucus.

Mr Johnson: Mr Scott, thanks very much for taking the time to be here. We appreciate your input and your presentation.

If we were to suggest that this bill takes away the voluntary part of nutrient management plans, which have been voluntary up until now, if we're saying that, how does the practice—and I don't know a lot about it. Do you have an environmental farm plan?

Mr Scott: No, I don't.

Mr Johnson: Do you know enough about them to tell me a little bit about what they are?

Mr Scott: I actually do, I guess. I've taken the course on the environmental plan and I have the sign at the gate, so I guess I have done that. The class was two years ago.

Mr Johnson: What I'm wondering is, should that be part of this legislation as well, or not?

Mr Scott: I think it would maybe be a good idea to look at it and see if there are points in there. I've forgotten some of mine; I should review it.

Mr Johnson: Maybe we should be looking at that as something in the future to add to it or to consider part of it or whatever?

Mr Scott: I think that would be a wise idea.

The Acting Chair: Our next speaker is from the Liberal caucus.

Mr Peters: I would like to go back to your point, "New regulations shouldn't limit the use of poultry manure based on the size of my farm." If there are regulations that are going to say that you've got to have this much land available to you, what is that going to do to your own operation?

Mr Scott: In my personal operation I have 50 acres and 8,000 birds. My manure goes to my brother, who has 1,000 acres. Three quarters of my manure goes to him and one quarter stays on my own farm. That's because of rotation when we do wheat, soybeans and corn, and I only put it on when I have corn. So that's how I handle my liquid manure. I've had liquid manure for over 30 years and I've had no complaints from anyone because we do look after it properly and we spread it properly. I think we do a good job.

The Acting Chair: Thank you very much for your presentation, Mr Scott. We certainly appreciate you taking the time to come out this morning.

GREY SAUBLE
CONSERVATION AUTHORITY
SAUGEEN CONSERVATION

The Acting Chair: Our next presenter is from the Grey Sauble Conservation Authority; Dick Hibma, chairman. Thank you very much for coming this morning. Please begin whenever you're ready.

Mr Dick Hibma: Thank you for the opportunity to address the committee this morning. You have copies of our presentation being distributed. I'll read through it.

We would like to thank the committee for the opportunity to make a presentation to you today. My name is Dick Hibma and I am the chair of the Grey Sauble Conservation Authority. With me are Delton Becker, who is the vice-chair of Saugeen Conservation; Jim Coffey, who is the general manager of Saugeen Conservation; and Jim Manicom, who is the general manager of Grey Sauble.

Conservation Ontario, representing the collective of Ontario's 38 conservation authorities, has made a separate submission. I generally do not propose to repeat what they have already said nor to refer to it other than to say that we support the recommendations they've put forward.

Grey and Bruce counties are covered largely by the two conservation authorities represented here today: Saugeen Valley, operating from Hanover, and Grey Sauble, located near Owen Sound. For several decades these two authorities have worked to maintain and improve the natural environments in the watersheds over which they have jurisdiction. Therefore, we feel that we should provide input to Bill 81, the Nutrient Management Act.

In Grey and Bruce counties, agriculture is somewhat different than in other parts of Ontario. We are blessed with apple orchards and row crops as well as pasture and forage crops. Generally speaking, agriculture in the two counties is less intense than in more southern portions of the province. Bruce and Grey are famous for the quality of beef produced here. The rocky nature and rolling topography of much of the two counties makes more intensive production impossible in many parts of the two counties. However, we do recognize that improvements to the way farming is carried out are both possible and

desirable, particularly where livestock are allowed free access to watercourses, where buffer strips are not always maintained along waterways and where manure is sometimes applied inappropriately.

The topography presents problems to many farmers. Steep slopes and rolling landscapes present problems for cropping and manure application. However, in some cases this is the only type of land a farmer may own.

The farmers are the primary stewards of the land and, with the proper resources, they will enhance and protect those lands because their futures also depend on their quality. Grey and Bruce counties also possess some of the best trout streams in Ontario. The waters generally are clean and cold and fast-flowing. These attributes are difficult to find in many parts of Ontario where more intensive agriculture occurs, where there is less forest cover, where watercourses are intermittent and water quality is impaired. The conservation authorities in Grey and Bruce want to protect and enhance the water resources for present and future generations.

The nutrient management legislation and the corresponding regulations must allow for educating farm and non-farm families alike about the importance of the environment and how we all are part of the problem and must all be part of any solution. We must remember that we are all connected within the watershed and that what's done upstream will have an effect downstream, both negative and positive. However, the big stick approach is often met with fear, resentment and retaliation.

Also, at the local level there is a concern about the large, intensive livestock operations that are occurring in other parts of Ontario and Canada and are now being proposed in this area. Will the soils, the topography and the present land uses be able to accommodate greater nutrient applications without impacting on the water resources, the environment and ourselves?

The conservation authorities in Grey and Bruce support the concepts and the intent of the proposed Nutrient Management Act. We have all seen, especially in the local area, the importance of clean water to our daily existence. However, agriculture is not the only source of problems for our surface and groundwater resources. Other industries, septic systems, urban stormwater and runoff, among others, also impact on water quality. In order to protect the natural environment, there must be a comprehensive provincial water policy framework that addresses this complex issue. The Nutrient Management Act and its eventual regulations is but one tool in the kit of good management.

The watershed is a vital unit to be recognized and incorporated into all water-related planning functions. A problem in headwater or source areas of a stream or in groundwater recharge areas can have a far-reaching impact on downstream users of the water resource. Such problems do not necessarily have to be the result of agricultural production. Understanding and recognizing the importance of watershed management is key to any legislation, regulation, management plans, operations and enforcement.

In addition, due to the fact that water is used and reused by a multitude of life forms in a watershed, including humans, it is important to maintain the quality from the source to the mouth of any watercourse. There is also the question of valuing water, sharing the water resource with other human users, as well as the natural environment. Whom does the Ontario water belong to? How much is that resource worth? When there is a shortage of water, who should have first call on its use? If the water resources in Ontario belong to the people of Ontario, then ensuring the quality and quantity of surface and groundwater to every resident in the province is of paramount importance. Thus there is a necessity for a provincial water policy framework in which this proposed legislation may provide an important function.

The proposed Nutrient Management Act relies heavily upon regulations which we have not yet seen. The regulators would need to recognize the need for flexibility in their content. For example, a prescribed minimum setback for the spreading of nutrients adjacent to a watercourse is appropriate, but the setback may have to be altered given the topography, soil type, vegetation, wetlands or recharge areas. Once basic requirements are established by regulation, nutrient management plans and management practices should be flexible enough to incorporate the local watershed characteristics.

The enforcement of the regulations requires knowledgeable individuals who are well acquainted with farm practices. Sensitivity to the agricultural industry as well as the environment is required to serve the total needs of society.

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To implement the concepts identified in the proposed act, the agricultural community will be required to undertake significant changes to their style of operations. These changes will involve major expenses on their behalf. The conservation authorities encourage the provincial government to recognize this and to embark on an extensive incentive program to assist farmers. In previous years the Clean Up Rural Beaches program, CURB, provided relief to selected watercourses that impacted beaches usually located at the mouths of the individual watercourses. The present healthy futures program will provide additional support. The counties of Bruce and Grey, in conjunction with the local conservation authorities, are currently applying for this program.

However, for the extent of the work necessary, there is insufficient time remaining in the program to implement the improvements required. The healthy futures program or a similar program should be offered for a minimum of five years before enforcement activities begin. This would give farmers an opportunity to receive financial assistance to undertake nutrient management plans and other corrective measures. In addition, any such program should be easy to access and implement without unnecessary hurdles for farmers or program sponsors to overcome.

Since conservation authorities are local, grassroots resource management agencies established on a water-

shed basis, we see ourselves, as local organizations, able to assist the provincial government, municipalities and the agricultural community in implementing some aspects of the legislation. We are presently working with the Ministry of the Environment to set up groundwater monitoring stations. In previous years we have collected surface water samples, also for the MOE. In addition, we are charged with certain drought-related functions, as well as flood warning responsibilities. Our knowledge of the watersheds over which we have jurisdiction is significant and our knowledge of the local community is an important component of our operations.

That's the conclusion of our presentation. Thank you for the opportunity to present. At this point I'll be pleased to answer any questions.

The Chair: As far as questions, Mr Hibma, we have a little over two minutes for members of each caucus. We'll now in rotation go to the PCs.

Mr Murdoch: I thank Dick for his presentation. I appreciate what you have to say in there and the co-operation that we get in Bruce and Grey counties from the conservation authorities.

I think you've said pretty well everything in there that we need to know. I really don't have any questions, other than that I appreciate that and hope we can rely on the expertise of the conservation authorities when it comes to the regulations.

I am hoping that they go back out for consultation and that both conservation authorities that are here today look at them and make sure you get your comments in to us. because. Having been on the Grey Sauble Conservation Authority for many years, I know what they do there, and we need your expertise to help with the water quality of our area. I just want to thank you for that. We appreciate all the work you've done.

Mr Hibma: Thank you, Bill.

Mr Peters: Thank you for your presentation. I'm going to put a question back to you that you posed to us because I think it comes down to the crux of it: will the soils, the topography and the present land uses be able to accommodate greater nutrient applications without impacting on water resources, the environment and ourselves? What is the answer to that? If we don't know the answer to that, what should we be doing to get the answer to that question?

Mr Hibma: That goes to the point we make about the enforcement. It has to be very solidly knowledge based on the local situation. Every farm property has a different capability for nutrient management. Therefore, any nutrient management plan has to be situational.

Mr Peters: What do we need to do to get that answer?

Mr Hibma: You have to work very closely with every operator, and the regulation enforcement people have to work very closely with those people. They need to be knowledgeable about the local area, the local soil structures, the local topography. If you have hard-packed clay soil, you have significant runoff problems no matter whether it's dry or wet; the soil is not going to absorb what you're spreading there. If you had very porous

sandy or gravel soil, you're going to have a lot more seepage down through, which affects the groundwater. Both aspects and all of that range of soil types in between those need to be considered, and those can vary significantly even within a small municipality. So it has to be very much fact-based, in-the-field, planned development and planned regulation and enforcement; very much in the field, knowledgeable people working very closely with the people who are developing these plans and putting them in place. It can't be done from a central location without being in the field.

Ms Churley: Thank you for your very thoughtful presentation; it was very good. We're here today I think in large part because of what happened in Walkerton, and this is one of the responses, to try to make sure that it doesn't happen again. But we're hearing repeatedly from some, and it's my opinion as well, that this is only—and I think you said it—part of the answer.

I would like to ask you, in such a short time, what do you think the other parts of the answer are? We know that finally there's a groundwater study being done; it's going to take some time. The Walkerton commission will report soon, and there will be recommendations from that. Certainly you have a role to play because of your knowledge of the watershed. So in a nutshell, what other pieces do we need to be looking at here?

Mr Hibma: From my perspective and shared by the people behind me, a comprehensive water policy statement must come forward from the province and it must tie all of the pieces together. We're talking about a nutrient management plan, and I'm saying that has to be in the field. It must be very locally based. At the same time, we have legislation in place now and enforcement of acts now that are having a major impact on the number of wells: communal wells, small community wells that are being kept up, or not, and the drilling of many individual household wells as a result of communal wells being closed down because of the cost that's being put on them.

We're going to have groundwaters that are going to look like Swiss cheese, introducing so many more opportunities for contaminants to get into groundwater. If we continue to have ad hoc legislation being introduced and enforced without a comprehensive policy statement that says it all has to interrelate and tie together, we will compound one problem while trying to address another. So we cannot stress strongly enough the need for that comprehensive water policy statement and to tie all of the pieces together in every action instead of an ad hoc approach to this.

Ms Churley: So ultimately, once that's completed and the recommendations come from the Walkerton inquiry, this legislation would have to be part of it, but could in fact have to be changed again, depending on what the results of those recommendations are.

Mr Hibma: Very much so.

The Chair: I want to thank Grey Sauble Conservation Authority for coming before the committee. We appreciate that.

1110

SIMCOE COUNTY FEDERATION OF AGRICULTURE

The Chair: From our agenda, our next delegation scheduled is the Simcoe County Federation of Agriculture. Good morning, sir.

Mr Keith Currie: Good morning. On behalf of the Simcoe County Federation of Agriculture, I'd like to introduce myself as Keith Currie. I would like to say good morning to all the honourable members and appreciate your giving me and the county federation of agriculture in Simcoe the opportunity to speak before you.

I was a little late coming in this morning. I was told to prepare a number of copies. I'm not sure whether I'm to hand them out later or—

The Chair: The clerk will pick those up, and you just may want to proceed with your presentation.

Mr Currie: The Simcoe County Federation of Agriculture would like to express our gratitude for the opportunity to share our views on the proposed Nutrient Management Act, Bill 81. With a member base at over 1,700, the Simcoe County Federation of Agriculture represents farm family members in all types of agricultural operations within the county of Simcoe and is their voice, not only to the ratepayers and legislators of the county, but is the local voice for our parent body, the Ontario Federation of Agriculture.

No sector of society is more aware of the environment and what their activities can do—to everything from the air we breathe, to the water below the ground which we use on a daily basis—than the agricultural community. It is for that reason that some members of the farming sector may feel insulted and offended that they will be forced by legislation to comply with someone else's rules. However, the majority of the farming community understands that such legislation will not penalize certain members for living in one county or township versus another where current rules and regulations are maintained by local municipal councils, conservation authorities or driven by local public perception or personal agendas. A province-wide set of rules means fairness and equality across the board. It will also serve to show the general public, who have become increasingly aware of the potential agricultural impact on the environment, and in particular on sources of drinking water, that farmers are doing everything possible to minimize and eliminate those impacts.

Legislation such as Bill 81 could have a greater impact on farmers than anything they have experienced in the past. As people who take great pride in land stewardship, many, if not all members, will be on the defensive when it comes to nutrient management and its legislation. The Simcoe County Federation of Agriculture and its membership support, in general, the proposal of a Nutrient Management Act.

Many farmers are concerned that the bill as it currently reads does not identify the particular ministry that will be responsible for administering this act. It is important that the responsible ministry is competent in agricultural matters and employs enforcement officers who also demonstrate the same competency. It is the belief of the Simcoe County Federation of Agriculture and its membership that even though several other industries will be affected, the primary target of Bill 81 is the agricultural industry. Therefore, it is our belief that the Ministry of Agriculture, Food and Rural Affairs must be identified as the ministry responsible for the administration and enforcement of Bill 81. The Simcoe County Federation of Agriculture recommends that OMAFRA be the sole body responsible for administering Bill 81 and, as such, should not be allowed to delegate any responsibilities to agencies or persons outside of the government. Therefore, it is our recommendation that clauses 2(1)(c), 3(1)(c) and 4(1)(c) be excluded from Bill 81.

Similarly, the Simcoe County Federation of Agriculture also believes that the government of Ontario should not be permitted to outsource tasks such as those outlined in clauses 55(1)(a), delegating power for the establishment, maintenance and operation of a registry; 55(1)(b), the review of any nutrient management plans or strategies; and, 55(1)(c), the issuing, amending, suspending or revoking of certificates, licences and approvals.

As was previously stated, Bill 81 will have a huge impact on this province's agricultural industry. As a result, it is imperative that any development of regulations and standards must include input from the entire agricultural community and that the ultimate standard is having nutrient management plans tailored to the location where nutrients are applied. Therefore, it is critical to address by legislation the important role local nutrient management advisory committees will play in addressing nutrient management concerns.

It is also critical that OMAFRA take a lead role in advising farmers of any and all standards and provide the necessary training related to those set standards. There is also no question that the provincial government must make financial assistance and incentives available to farmers who will be required to upgrade their existing facilities in order to meet set standards.

While the proposed nutrient management legislation provides for the right to a hearing by tribunal, the Simcoe County Federation of Agriculture believes it is essential that such hearings ensure that the Environmental Review Tribunal be composed of individuals who have been trained in nutrient management to ensure familiarity with normal farm practices.

In order for Bill 81 to be effective, the monitoring of nutrient management plans is essential to ensure farmers are being compliant with the legislation. To reassure society that the farming community is successfully doing its part to protect the environment, there must be a proper system in place to verify that they are complying with set rules. For this to occur, periodic inspections must take place. The conducting of inspections, as well as

enforcement by one provincial agency, would provide a better level of consistency than if responsibility were given to a multitude of local authorities.

While provincial agencies must be given the freedom to conduct random audits and/or inspections, it is imperative that biosecurity protocols be established within the farm community and adhered to by the appointed inspecting agency. The Simcoe County Federation of Agriculture also insists that any inspections tied to criminal investigation be done with the acquisition of a warrant or court order. Any entry without warrant or court order should be justified only in the event that there is danger to human health or safety, property or the environment, and should be done through the Environmental Protection Act, not Bill 81.

The Simcoe County Federation of Agriculture suggests that the legislation should establish a process that clearly lays out that random inspections serve to help producers determine what part of their operations are compliant and those that are not. We recommend that the issuing of an order only be given to individuals who, within a reasonable amount of time, refuse to correct a situation. This could be determined by a follow-up visit at that time. Should refusal to comply occur, the Simcoe County Federation of Agriculture would support monetary penalties that are appropriate.

The Simcoe County Federation of Agriculture would support a director's decision to assess fines if an order to correct a situation was issued and not complied with in a reasonable time period, or if a director issued work to be done by a third party and the costs to be incurred by the individual or individuals at fault, providing that an adequate appeal mechanism is in place.

For Bill 81 to be effective, the threat and follow-through of fines for non-compliance is essential to the establishment of the legislation's validity. The Simcoe County Federation of Agriculture agrees with this concept under the provisions of an adequate appeal mechanism. It is essential that a set guideline for fines be established so that said fines sufficiently suit the punishment and are neither too severe nor too lenient.

Bill 81 enables the minister to delegate powers and duties relating to the establishment of a registry, review of nutrient management plans, issuing of certificates and approvals and conducting prescribed work other than inspections and enforcement. It is crucial that these elements of the legislation be administered by a provincial agency to ensure province-wide consistency. The Simcoe County Federation of Agriculture insists that the most effective way to guarantee this consistency, while maintaining the best interest of the agricultural community, is to have OMAFRA as the overseeing body.

The Simcoe County Federation of Agriculture recognizes that the decisions of the Normal Farm Practices Protection Board have always been site-specific and understanding that normal farm practice varies across the province, particularly with respect to proximity to areas populated by non-farm residents.

Section 62 of Bill 81 deals with amendments to the Farming and Food Production Protection Act, 1998. The Simcoe County Federation of Agriculture recommends that under subsection 62(1.2), that an amendment to the Farming and Food Production Protection Act indicate a judge "may" refer the determination of a normal farm practice to the Normal Farm Practices Protection Board, be changed to a judge "shall" refer the determination of a normal farm practice to the Normal Farm Practices Protection Board. This change will ensure that the best interests of farmers will be addressed by an appropriate body.

Ever-increasing input costs, combined with low commodity prices, have put an enormous strain on the livelihood of our province's farm community. As a result, farmers today have to be extremely efficient in all areas of agriculture, and in particular, crop production. Global positioning systems and yield tracking devices in our combines, along with thorough soil testing, are used by government-certified crop advisers to help farmers determine what's been taken out of the soil from the previous year's crop, what's still left in the soil and what needs to be added to assure a properly balanced, economical fertility program. In many farmers' minds, this legislation threatens their experienced ability to make proper nutrient decisions freely.

Currently, there is a considerable level of confusion and fear in the countryside pending the arrival of this legislation and its regulations. In particular, livestock farmers feel very threatened by Bill 81. While it is necessary for large livestock operations to have proper facilities for manure storage and handling, they must also have an adequate land base to apply manure generated by their operation. However, many small to mid-sized operators are fearful of the possibility of forced downsizing if their herd size does not meet the required animal unit per acre number set out by a committee of urban planners in a downtown Toronto boardroom.

The Simcoe County Federation of Agriculture commends the government of Ontario for their development of nutrient management legislation. The implementation of Bill 81 will not only enhance society's confidence in our provincial food production, but instill confidence that the farm community is doing its part in the protection of the environment.

Farmers will do their part to comply with new rules outlined in the bill, but it will not happen without great economic stress and hardship for many of them. Therefore, the Simcoe County Federation of Agriculture is insistent upon the government's establishment of a transition funding program to be launched at the same time that nutrient management regulations are introduced.

The Simcoe County Federation of Agriculture suggests that the government of Ontario must make it clear that the intent of the Nutrient Management Act is to map out for farmers standards they will be expected to meet, and to assist them through training and other means. We strongly believe that the proposed Nutrient Management Act should be given the ability to promote education and

awareness with respect to the application of nutrients to agricultural land and that this must take precedence over its regulatory component.

1120

The Chair: We have about one minute for each party. We'll begin with the Liberal Party.

Mr Peters: Thank you for the presentation. Part II of the act, when the regulations are set, is going to deal with the time in which materials and nutrients can be applied to the lands. There has been some talk of setting a calendar date as to when timed nutrients can be applied to lands. Quite frankly, I think there's a big difference between Simcoe county and Essex county. What are your thoughts on a calendar date for when nutrients can be applied?

Mr Currie: I think, in principle, that will work, but what needs to be done—and as I've mentioned in this brief—is the establishment of local advisory committees, not so much to set or enforce rules, but to simply advise the governing body of what works in their area. I think what has to take place through those committees is a lot of common sense, obviously.

As you mentioned, Essex county, of course, has a much earlier spring start time than, say, Simcoe county or even farther east. To set a specified calendar date I think could be very limiting. You take this spring, for example. There was no runoff. The snow was gone very quickly. People were on the ground very early, yet if a calendar date, say, of May 1 or May 15 had been set, a lot of people would have been sitting waiting, doing nothing, trying to get their nutrients on the ground.

While I think a calendar date is a good guideline, I don't think it probably would be effective if it were to be a regulatory method. I certainly do think it's an extremely good guideline to use, depending on a little bit of variance throughout the province, as you suggested. But to use it as the sole set of rules, I don't know that that would necessarily work from year to year.

The Chair: We'll go to the NDP.

Ms Churley: You mentioned financial assistance and incentives a couple of times, and certainly I would say that we need to bring back the CURB program—Clean Up Rural Beaches—or something like that, and of course there's healthy futures, which needs to be expanded. But this is a concern, I think, to all of us, that in order for this thing to work, there needs to be some resources attached. We haven't even gotten to what that means yet on the committee, but it seems to me that there's going to be a fairly large substantive investment needed by the government to make this work. Do you have any further comment on that?

Mr Currie: Obviously, in my opinion, one of the major targets of this legislation are livestock farmers. For the most part, I think they are generally pretty responsible. As we've seen this week, there's always a bad apple in every bunch; you can't get around that. However, I think the fear is out there—and it's a legitimate fear—that we really don't know how much teeth this legislation is going to have as far as really restricting,

regulating and controlling people's operations, in particular when it comes to manure storage, for example.

I know there are a lot of people who are afraid that it's going to cost them a lot of capital expenditure money to get their particular operations up to speed, so to speak. How that's achieved is a tough question because this legislation certainly doesn't deal with any financial matters, it deals strictly with the application of the Nutrient Management Act. That's something, I guess, that perhaps the government or your committee maybe needs to look into more, in order to advise the government on what they need to do as far as getting financial assistance out to farmers.

I know conservation authorities across the province have had healthy waters and healthy futures programs which have been very helpful. However, their funds, in particular to nutrient management, have been limited because they cover such a broad spectrum of categories. They have to delegate money to all categories, so therefore their money to nutrient management in particular is quite limited. However, that is an attitude, Ms Churley.

The Chair: We should wrap this up. OK. I'll go to the Conservatives.

Ms Churley: We'll explore it another time. Thank you.

Mr Murdoch: I'll be short. Thank you very much, Keith, for bringing over your presentation. We appreciate it.

We've heard from a lot of different farm organizations and I'm hearing about four key areas. One is that most of them agree in principle with this law, if they get a chance to have some input into the regulations, and I think that's key. The other one is that you want OMAFRA in charge. I'm hearing that from all the rural presenters, and also that there has to be compensation if these rules are going to be. So I would think those are the four: principle, regulations, OMAFRA in charge and compensation. Would you agree with that?

Mr Currie: Yes. The OMAFRA issue is a key one simply because they were the ministry responsible for developing this act, putting it together through Mr Hardeman's and now Mr Coburn's office. There's a lot of fear out there that the Ministry of the Environment is going to be the overseeing body and the fear is that they're going to come in with—for lack of a better term—a Gestapo-type hand and lay down the law with really no knowledge of the true farming community like OMAFRA has.

Mr Murdoch: They seem to be doing that in our water systems right now, so we certainly don't want them doing the same thing.

Mr Currie: They would only be doing their job so, to speak—

Mr Murdoch: There's a way of doing it.

Mr Currie: —but I think OMAFRA is much more knowledgeable on the agricultural community and that's why the push is for that.

Mr Murdoch: Agreed.

Mr Currie: And province-wide consistency so that this township doesn't have a set of rules different than the next township.

Mr Murdoch: Good.

The Chair: Thank you, Mr Currie. We appreciate the Simcoe county federation coming forward.

Mr Currie: Thank you very much for your time.

CITIZENS ACTIVELY REPRESENTING ENVIRONMENTAL SECURITY

The Chair: Our next delegation on the agenda is Citizens Actively Representing Environmental Security. I'd ask the representative to come forward. Good morning. We have 15 minutes. We'll ask you to give us your name for Hansard.

Ms Kathy McCarrel: Good morning. Ladies and gentlemen, my name is Kathy McCarrel and I live in the municipality of Saugeen Shores in Bruce county. As spokesperson for CARES—Citizens Actively Representing Environmental Security—I speak to you today on behalf of all Bruce county citizens concerned by the influx of large-scale intensive livestock operations into our Saugeen and Maitland watersheds. We wish to thank our provincial government for recognizing this as a serious health and environmental issue by organizing these forums.

The primary goal of CARES is to create awareness in our community of the issues surrounding intensive livestock operations that jeopardize the environmental, as well as the social and economic, fabric of our area. Our mission statement declares: "We defend the right of our natural resources to exist, so that we may preserve: the beauty of the Saugeen river system where we canoe and kayak, our clean beaches that we swim and picnic at, the clean waters that we fish, the clean wells from which we drink and the clean air in which we enjoy our sunsets."

I have lived in Bruce county for 30 years. As an amateur photographer and sports enthusiast, I deeply appreciate the pristine beauty of our majestic rivers, our sandy beaches and our rural landscape. Regrettably, I fear that we are at risk of losing these natural riches as they become overshadowed by the interests of corporate agriculture.

It is recognized that, since the Walkerton E coli tragedy, positive steps continue to be taken with regard to water quality: a \$6-million provincial groundwater monitoring network was announced in October 2000; a \$15-million federal water management research project was launched in March 2001; \$10 million was made available to municipalities last month from the province for groundwater studies; and now Bill 81, the proposed Nutrient Management Act, appears to be moving toward a positive solution to the liquid manure problem in Ontario, be it ever so slow.

We ask why OMAFRA have been seemingly dragging their feet on this issue for the past four years. At a Toronto conference earlier this year, David Schindler, a former researcher with the Department of Fisheries and

Oceans, stated, "Considering its importance to all life on earth, it is strange that freshwater has been our most mistreated and ignored natural resource. As we have less water to work with, we're trying to squeeze more pollutants into it." As if to demonstrate this, I read the following headline in the Ottawa Citizen last month: "Canada: The World's 'barnyard': Canada taking massive pig farms that are too dirty for Europe." At a time when the Dutch government is paying its intensive livestock operators to shut down because of their manure problems, we question why OMAFRA failed to address the issue of liquid manure prior to setting out the welcome mat.

1130

Gord Miller, Ontario's Environmental Commissioner, voiced concern in July 2000 that since OMAFRA's primary client group is the Ontario farm industry, did this not pose a direct conflict of interest for this ministry to take the lead in drafting manure management legislation? He further recommended that the security of drinking water fall under the mandate of the Ministry of the Environment.

The fact that OMAFRA continues to recognize intensive livestock operations as a normal farm practice under Bill 146 further supports our claim that a conflict of interest resides within this ministry. Therefore, due to the serious link between agricultural practices and water quality, we recommend that Bill 81 clearly establish the Ministry of the Environment as the ministry responsible for regulating all intensive livestock operations in Ontario.

It would seem that OMAFRA has given almost exclusive reliance on nutrient management plans as a means of ensuring that intensive livestock operations do not negatively impact the environment. While they are an appropriate tool for use in matching manure application rates to crop requirements, nutrient management plans are not capable of preventing ground and surface water degradation. Too much emphasis has been placed on nutrient management plans within Bill 81, and too little emphasis on environmental risk assessments.

A report prepared by Dr Michael Goss for the Walkerton inquiry indicated that because there are so many different types of manure, fields and weather conditions, it's "impossible to predict precisely what will happen to manure under any given set of circumstances." Therefore, nutrient management plans will not account for the mobility of pathogens in animal manure nor their ultimate destination.

We request that the new legislation recognize the need for mandatory environmental assessment for new intensive livestock operations. There is currently no requirement for potential environmental impacts to be assessed through the current nutrient management planning process. We are certain that if the Ministry of the Environment were to assume the lead role of regulating the intensive livestock industry, environmental risk assessments would play a key role in regulating this industry.

Instead, we find that OMAFRA effectively guarantees protection for corporate agriculture under Bill 146, which

basically ensures that environmental assessments will not be required of them. OMAFRA's concerns for the potential impacts of intensive operations are described in Bill 146 as "activities that may cause discomfort and inconveniences to those on adjacent lands." We suggest that the impacts of large-scale intensive livestock operations go far beyond mere inconveniences, that there is a very real potential for nutrients and pathogens to get into our watercourses when liquid manure is applied on tiled land, and that such hazards be properly identified through environmental risk assessments. This would go a long way to addressing the concerns of the surrounding community.

To blatantly ignore environmental risk assessments would clearly show that policy-makers are deliberately turning a blind eye to the following glaring facts:

(a) The Upper Thames River Conservation Authority released a report in November 1999 stating that liquid manure, applied in accepted quantity and under ideal conditions, is leaching through cropland into field tile in the highest amounts within 30 minutes, finding its way into streams and rivers. Researchers noted that it is evident that soil is not uniform and that instead, it is channelled with worm and root passages leading to field tile.

(b) Dr Michael Goss's report to the Walkerton inquiry stated that the most frequently reported type of manure spill in the province are running field tiles.

(c) Tile drainage installation jumped from 53 million feet in 1985 to an estimated 152 million feet in 1999. That's 30,000 miles of tile in one year. The Tile Drainage Act provides loans to farmers for the installation of tile with a \$12-million budget.

The Ministry of the Environment must assume the lead role to develop these new regulations in order to ensure that proper environmental risk assessments become mandatory for the siting of intensive livestock operations. Furthermore, Ministry of the Environment expertise must be utilized to find solutions to the problems posed by the agricultural practices of tiled land and the handling of raw liquid manure.

Statistics Canada data indicates that the country's highest concentration of manure is in the Maitland River watershed. This is an area where a new livestock barn came into production every 10 days in Huron county between 1996 and 2000. While a strong, common set of provincial regulations should set the bar high in terms of environmental responsibility, our concern is that a one-size-fits-all solution will not be strong enough to meet the diverse needs of different communities such as those of Huron county. Municipalities must be given the ability to balance the unique needs of their community by giving them the authority to further strengthen rules governing environmentally responsible farm practices.

At a recent conference, Gord Miller, Ontario's Environmental Commissioner, emphasized that it should be recognized that the agricultural landscape across Ontario varies greatly and that "General rules across the landscape are something we need to avoid." Yet with

OMAFRA in the driver's seat steering this process, we question if this ministry is capable of stepping aside so that municipalities such as West Perth, for instance, are able to restrict the number of animals allowed on a single site. This township believes it is easier to limit pollution by stopping the growth of mega-barns. The Ontario Municipal Board agreed not only that the actions taken by this municipality were valid, but that these elected officials actually had an obligation to do so to protect the interests of their citizens.

In the Bruce county official plan dated April 1997, section 5.5.11 states, "The establishment of large-scale intensive livestock uses can pose a threat to the environment due to possible pollution from livestock-waste handling systems. To ensure the protection of the natural environment, municipalities may establish regulations in their zoning bylaws to restrict the location and intensity of new intensive livestock uses." If Minister Coburn truly believes that Bill 81 will address citizens' concerns and safeguard our environment, then he must ensure that this legislation does not obliterate our local bylaws that recognize local needs and that provide increased environmental protection. To fail to do so would continue to cast doubt as to the appropriateness of OMAFRA as the lead ministry.

In closing, I wish to point out that OMAFRA would have you believe that the concerns of citizens' groups like CARES stem from a rural-versus-urban conflict. Minister Coburn referenced a population shift in his statement to the Legislature on June 13, 2001, stating, "More people are moving out of the cities and into the countryside." However, the fact is that in Bruce county, the Bruce County Federation of Agriculture, a group representing our rural farmers, has also voiced concerns regarding large facilities using liquid manure. In a letter to the Kincardine council dated August 22, 2001, the president of the Bruce County Federation of Agriculture stated, "Should you decide to place restrictions on liquid manure livestock facilities, you will be doing so with the support of the majority of your rural community." Our farming community has concerns, as do the voting public.

We anticipate that Bill 81, the Nutrient Management Act, will represent the interests of the many and not just the few. Developing nutrient management legislation has been and continues to be a long, drawn-out process. In the meantime, enormous livestock facilities continue to pop up all along our rivers in Bruce county. The genie is out of the bottle. We fear that your solutions may arrive all too late. We suggest that you stop consulting and get on with the task at hand. Thank you.

The Chair: Thank you, Ms McCarrel. That leaves us about 30 seconds for a very brief comment from each party. We'll begin with the NDP.

Ms Churley: I don't have time for a question, so I'll just say I share some of your concerns about this legislation in that it doesn't deal with the intensive livestock issue and it will take power away from municipalities to be able to tailor what we need to see as minimum

standards, with municipalities able to enhance those as necessary.

I think what we need to do is have a look at the existing information from Europe and the States where there have been spills and the kinds of problems there have been with intensive farms and go from there because, as you said, that issue is not addressed in this legislation. Thank you.

1140

The Chair: Thank you. Over to the PCs.

Mrs Tina R. Molinari (Thornhill): Unfortunately, there isn't time for the question and response, so I will just make a comment and ask you to ponder it.

During the process of the committee hearings we hear varying views, of course, with the subject at hand, and Bill 81 at this point. Your view is quite different than some of the others that have been expressed as to which ministry should be responsible for it. Our job in bringing this forward is to try to accommodate and listen to the requests. Obviously we can't please everyone, so what I ask you to consider is if there is a possible compromise between the Ministry of the Environment and OMAFRA working together in the process and implementation of this legislation. I think it's key. They're both important. It's just a matter of the roles that each of them plays in the implementation of this, so I ask you to consider a possible compromise.

The Chair: Thank you, Mrs Molinari. The Liberal Party.

Mr Peters: Had the government followed its agenda, we wouldn't still be consulting; we would have been dealing with this a year ago. We've lost a whole year.

Could you please define for me—you used it twice in your presentation—corporate agriculture?

Ms McCarrel: I think of corporate agriculture as what we see popping up in Bruce county. It's the hog industry that's moving in, infiltrating our area. As a definition, intensive livestock is 150 animal units or greater, so I would leave it at that.

The Chair: Thank you, Ms McCarrel. The committee appreciates the presentation from CARES.

BRUCE COUNTY CATTLEMEN'S ASSOCIATION

The Chair: For our next agenda item, we would call forward the Bruce County Cattlemen's Association. Good morning. I'll ask you to identify yourself—I think a lot of us know who you are—for the purposes of Hansard.

Mr Stan Eby: Thank you, Mr Chairman, members. My name is Stan Eby. I'm a farmer in Kincardine township, the municipality of Kincardine, a beef operation. I work with my son.

Just as a comment from the last speaker, I've had about 27 years of experience with liquid manure in our operation and on tile-drained land, with good results and no complaints from the community.

I'm here to represent the Bruce County Cattlemen's Association on this Nutrient Management Act. I certainly appreciate the committee travelling the country to get input, and hopefully meaningful input will result. I'm also a director from Bruce county to the Ontario Cattlemen's Association and am involved with the Canadian Cattlemen's Association.

Bruce county is a major livestock production area. In the last census there was in excess of 1,850 farms that have beef cattle. With major shorelines in the county, Lake Huron on one side and Georgian Bay on part of the other side, and seasonal and permanent residents all the way around, this act will have major effects on how we operate as a livestock industry in the county.

Bruce County Cattlemen's Association is pleased to see the provincial legislation coming forward and the consultation that goes with it. Our major concern is that agriculture, and in particular livestock agriculture, must have a viable future in this province. It's a major engine to the economy. Beef sales in Ontario, farm gate value, are about \$1 billion. Take the spinoff of whatever factor you want and you can see it's a major engine to the economy.

Livestock agriculture is also sensitive to being singled out regarding water quality. There's a big investment by our producers in the industry, and we feel somewhat concerned that people with no investment in the industry seem to be making a number of the rules. Agriculture has been proactive with the environmental farm plans, nutrient management plans, best management practices. One of the concerns we have here in the county is that the Nutrient Management Act should just be a forerunner to a comprehensive water quality and safety act for this province. I think it's very important that such an act would encompass all water quality and water safety issues.

We also feel there should be a means of evaluating the improvements made by this legislation. Have we got baseline data of where we're at now? Can we evaluate what this legislation has done for us in 10 years' time? I think it's very important that we consider this to have some kind of yardstick on the investment we make in it for the returns.

We approve of all nutrients being included under the act. This is a major move. Many livestock operations in this area and across the province have had nutrient management plans, some more formal than others. As the regulations are developed, we feel they must have a practical intent and they must be workable, therefore reducing the enforcement requirements. It's well understood what we're trying to do here. I'm sure agriculture will pitch in and do their share.

We feel any regulations that are developed must have an economic and environmental impact analysis prior to coming into force. They also must be based on science, not on emotion. We have to have good information to base these regulations on. We can think of intensive livestock—the word “intensive” gets kicked around a bit. What is intensive for the land base? Those are the types

of things where we have to be very careful that we don't tend to squeeze operations out of business.

Above all, these regulations must supersede municipal bylaws. We cannot live in a province with a checkerboard of regulations and operate as a competitive industry on a national and global basis.

On the implementation, I think we should consider a phase-in, but if we're truly interested in water quality, all should be brought in in as short a period as possible.

We've also got a concern about wildlife. When we're talking nutrient management, we talk about disease, that type of thing. We have one of the largest deer populations and waterfowl populations this province has ever had. As livestock farmers, where does this fit into the equation? Some of our people have deer yarded up on their property, upwards of 100 deer. It's certainly a concern in this overall nutrient management planning.

I believe one of the other presenters mentioned biosecurity. That's a major concern of people, inspectors inspecting properties. I'm sure that will be addressed.

Financial investment I think is very important. I believe everybody else has mentioned some type of financial package, and we in Bruce county consider that would be an investment by the province for the good of the public.

Cattle access to watercourses: if we make some arrangements to limit access of livestock to watercourses, fencing is not the only option; there are other options there. We would consider a land payment to take that land out of production or a reduced assessment on that strip of property as areas to look at.

As we look at this overall package, what are the costs going to be to the producers? As I mentioned at the outset, we have to have a viable future.

Liability insurance comes with all farm policies, pollution liability. With the Nutrient Management Act, I'm quite certain that the cost of liability insurance for farmers will increase. It's an area that I think we have to consider in some of our impact analysis. We see our taxes going up, our insurance costs going up. It just squeezes us out of existence.

We in Bruce county also agree that OMAFRA should be the lead on this, realizing that they have not got enough staff, that the environment ministry will have to be involved. But I'm sure a good co-operative effort can be made.

In the end, we must strike a balance between viable agriculture and environmental sustainability.

I thank you for the opportunity to address these rather general points to your committee.

The Chair: Thank you, Mr Eby. We have just under two minutes for questions from each party. We'll begin with Mr Murdoch.

Mr Murdoch: Thanks, Stan. I appreciate you coming over today and giving us those thoughts. I think you're pretty well on what most of the farm groups have said here today, or most of the people have said here today.

I was going to ask you, if you hadn't said right at the end there, who should look after this, but the compensation has to be there also.

How important is it with the regulations now that we get the input back, that we go back to the community that is going to have to live with these regulations? Do you think that's very important before they're finalized?

Mr Eby: Well, I think the impact analysis can be responded to by the various commodity associations and be saleable to the communities. Like I mentioned, if the intent is reasonable, the program can be sold.

The Chair: To the Liberal Party.

1150

Mr Peters: Thanks, Stan. As past president of the Ontario Cattlemen's Association, I know that you've been involved in this issue and you certainly are going to continue to be. You've just touched on it in responding to Mr Murdoch and you touched on it at the end of your own presentation, and that's the economic impact. Do you have any inkling, just from what you've heard discussed and possibly read, of what potential economic impact there could be on the cattle industry in this province? If there is going to be an economic impact study done, who should do it?

Mr Eby: There will be an economic impact to our industry. I guess I have to back up a wee bit. The cattle industry has shrunk in this province. The beef cattle industry has shrunk over the last number of years by about a million head. So we're not as big as we were before. Cattle running on pasture, cattle in confinement; we've got two different situations there. The impact of environmental controls like manure storage, the value on that; livestock access to watercourses, a cost for doing that. To come up with a figure—I know that's been discussed with some of the groups but there has been no consensus on a number. But it's large.

Ms Churley: Thank you very much, Mr Eby. I agree with some of your comments and disagree thoroughly with some of your other ones. I certainly agree with your suggestion for a more comprehensive bill to deal with the watershed.

The more I listen to deputations, I think I'm becoming convinced almost that this legislation as proposed should be scrapped, in terms of what we've heard from farmers about the huge cost implications and the amount of infrastructure that's going to have to be set up to deal with this. Yet we're being told by many that it's not going to solve the biggest problem that we have. We're hearing so many conflicting views on how this should be handled. It's my view that should it be handled the way that most of the farm community and you suggested, it should be scrapped because it just won't at all deal with the issues that we need to be dealing with.

I believe that if the bylaw power for municipalities is completely taken away all hell is going to break loose in some of our communities. One of the things that we're hearing different views on is what's called intensive livestock farms. I wonder, because we're hearing such conflicts—we know there have been problems in Europe and parts of the States—should we have a task force to look at the implications of more and more intensive livestock farms coming into our jurisdictions, to find a way

to be able to look at all the facts surrounding it and try to come to grips with it? I just don't believe, from what we're hearing and the letters I'm getting and the telephone calls, that the issue is going to be resolved or go away.

Mr Eby: I guess you and I could have quite a discussion on this. One of the major concerns that we've got here in this country—not in this province or this location—is the cost of food. You're eating way, way too cheap. My margin as a beef operator is less now than what it was 20 years ago. I'm trying to survive and produce cheap food, and these regulations have the potential of putting me out of business. Are you prepared to spend 30% of your disposable income on food? Maybe we should have a task force on that. We're being squeezed pretty hard here.

Ms Churley: Yes, I'm aware of that.

Mr Eby: What's intensive? Intensive is a word that we use rather loosely. There should be some tie to a land base or a land base available on things. The reason that we're producing food the way we are—why do we do it that way? People go to the cheapest place they can buy food, whether that's Wal-Mart—and then we're supposed to operate the way that people think we should have operated in 1950. We don't see a 1950-vintage vehicle in the yard. This is the year 2001. We're producing food for the populace at too small a rate.

Ms Churley: I would agree with that. We could have a good conversation.

The Chair: Thank you, Mr Eby. We appreciate the Bruce County Cattlemen's Association testifying before the committee.

For the information of the committee, there is a table set aside next door for lunch.

As many people realize, in response to the tragic situation in the United States, today is a day of mourning and our local MPP will be identifying a period of silence midway through the lunch hour.

We reconvene at 1 pm.

The committee recessed from 1156 to 1300.

The Chair: Good afternoon, everyone. We wish to reconvene hearings for the standing committee on justice and social policy, Friday, September 14, consideration of Bill 81, the Nutrient Management Act.

NATIONAL FARMERS UNION, ONTARIO REGION

The Chair: On our agenda we have listed as the first delegation the National Farmers Union, Ontario region. I would ask the delegation to please come forward to the witness table here. We'll ask you to give us your name for Hansard, and we have 15 minutes.

Mr Lawrence Andres: My name is Lawrence Andres. I'm the whole delegation here. I'd like to thank you for the opportunity to speak to you today and to be part of an important decision. I'd like to get into an introduction about what the NFU stands for and then lead

into maybe focusing on a few details, since we have time constraints here.

The National Farmers Union is a national general farm organization founded in 1969. We recognize and advocate for the family farm as the country's principal unit of food production, the primary agent of stewardship for the land and water, and the very foundation of the rural community. In Ontario, as elsewhere, the NFU actively promotes family-scale farming that is both economically and environmentally sustainable. It is our firm belief that policies which benefit the family farm are also the best policies for the citizens of Ontario as a whole, whether rural or urban. This is the fundamental principle on which we base our involvement in policy, including the current process of developing appropriate standards for agricultural operations.

I would like to focus today on the size and concentration issues. I would also like to elaborate a bit on some of the technical issues. We're going to have a separate presentation—a second one is going to be made—on the 17th down in Kemptville.

On the size and concentration issues, I would like to read a short paragraph here: The NFU has consistently maintained that the size and density of a livestock operation is a crucial distinguishing factor in determining what practices are acceptable for handling manure, and thus what regulatory measures are appropriate. Classifying agricultural operations for these purposes is not a simple matter, but it must be addressed if regulatory measures are to be feasible and fair.

On that issue we are very concerned—actually, in general, you could say we almost condemn the usage of manure. When we look back in time, traditionally a farming operation was a family-run farm. You would have a certain amount of livestock. The number of livestock would correspond directly with the number of acres which could, in turn, look after feeding the stock. Purchased feed, at that point in time, was not a very common practice. What happened there is that the manure was actually a valuable resource to maintain soil fertility, more like a cyclical principle. These days, on the contrary, you have so-called farming operations which are solely based on feed purchases. You would have to look at these types of operations as scenarios where you have more like a linear principle over the cyclical principle, which is more traditional and certainly more environmentally sound.

With the linear principle, you start with a natural resource, you do manufacturing, and you wind up with waste, and exactly the same scenario. We have what we perceive as an intensive livestock operation, which is a farm which imports all the feed and manufactures what in turn would be pork or beef or what have you, and at the end you actually wind up with waste. In conjunction with what I get to in the technical issues, with the feeding regime which is used in conjunction with all purchased inputs, it's making this an absolutely unacceptable situation.

When we look at the Galt-Barrett report of March 2000, we see that anything above 150 livestock units

would be classified an ILO. That would really do an injustice to, for instance, a cow-calf producer with 200 beef cows, which would be above the 150, but where he might graze his cows seven or eight months of the year out in range land, on pasture, on 500 acres. So you can really not look at him as an intensive livestock operator, and very likely he will make all the feed for his cows and not purchase anything. So there should be a clear distinction between a factory style, industrial approach principle and a situation where a person really still follows that cyclical approach, that method, which we find is absolutely sound and poses a very, very minimal risk of pollution of water, whereas a 100-cow dairy operation on a small land base has not reached 150 animal units but can be a very realistic threat.

In turn, on the size and concentration issues, the NFU recommends that the proposed legislation establish distinct categories of operation, specifically define large concentrated livestock operations as ILOs, and revise its definition of "farmer" to exclude ILO owners and operators.

Further on, the NFU recommends that the legislation specify appropriately different regulatory requirements for the different categories of agricultural operation, with rigorous regulatory requirements for existing and proposed ILOs and less onerous requirements for smaller operations, particularly in regard to procedures and paperwork, which is quite a concern.

Technical issues: nutrient management plans do not take into account many factors which are key to how manure or sludge will affect water quality, the environment and human health. These unaddressed factors include the content and quality of the materials, including the possible presence, along with the nutrients, of pathogens, drugs, disinfectants and heavy metals. These contaminants are potentially very dangerous, and in many cases can move into the groundwater, often through the very measures recommended in a nutrient management plan.

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So we'd like to make a point that it's not necessarily only the density and the amount of livestock kept on a farm that are very relevant to the potential of water contamination; the feeding regime in a farming operation has a lot to do with what happens when that manure is—in an ILO, I really would have to refer to it as "disposed of." In more of a family farm situation, where you follow cyclical principles, it's more like a utilization challenge there.

The problems are especially serious in the case of manure from ILOs, which, as noted above, tend to be heavy users of chemical and pharmaceutical inputs. That's a fact. These include numerous feed additives, growth promoters, medications and agents for the massive disinfection operations that such concentrations of animals involve and require. As a result, manure from ILOs is a toxic cocktail in which micro-organisms like *E coli* can mix with antibiotics, endocrine disruptors like hormones, and poisonous chemicals like formaldehydes.

In that potent and nitrogen-rich medium, the pathogens are able to develop mutant and resistant strains, multiply, and enter the environment, even if an approved nutrient management plan is in place.

I think this is a very crucial point in our submission. These large operations are actually using unacceptable production measures in order to produce those agricultural commodities. The focus should be on the situations which are a genuine threat. It should really lead away from situations like I explained before, where things are quite benign and where actually manure is of a totally different nature and is used in a much more sensitive way.

In conclusion, the NFU recommends that the multiple factors affecting manure content and quality be incorporated into the regulations when they are developed so as to improve the chances of a degree of effectiveness for the measures being prescribed.

The NFU recommends that the geophysical studies, section 5(2)(r), that will be required for ILOs be defined so as to include detailed and rigorous hydrogeological assessments. To my knowledge, up to now, these hydrogeological assessments have only been done when we've had a problem, after the fact. All of a sudden you go and say, "Boy, oh, boy, what happened here?" Then actually a conservation authority could have such a measure requested. Assessments should include aspects such as direction of groundwater flow, depth of water table and bedrock, geological composition of soil and substrata etc, and the relevance of these factors to the proposed or existing operation.

The NFU recommends that the government include in the bill and its regulations revised MDS standards which will better respond to the distance-related problems posed by ILOs, including changes or expansions of existing ILO operations.

Finally, the NFU recommends that the government actively support and assist with the further development, adaptation and adoption of processes such as composting of solid manure and the micro-aeration of liquid manure as a complementary part of the answer to the technical problems noted above.

It would be very sensible here that the government would try to provide appropriate financial and technical support for family-scale farming on these issues, such as composting of manures, aeration of liquid manures, things which even in a fairly difficult situation can improve things in a really astonishing way. I'm talking as a practitioner. I've worked with these kinds of approaches myself, and it's really hard to explain to you in a few minutes what it will do with these types of manures. But certainly it would make sense that we would have to end all support for the establishment and expansion of ILOs.

I think there's maybe a few minutes left for questions.

The Chair: I'm afraid we have used up the time. We could have 30 seconds for a comment from any of the parties.

Mr Peters: I will make a comment. I just want to take exception to one point, where you say that ILOs

generally use more drugs and chemicals, which have serious environmental effects. I can't speak for everybody, but I certainly know I have one large operation within my own riding where they do not use any antibiotics whatsoever or any growth hormones in their production. They go very far to stress they're a drug-free product.

How many members are there in the National Farmers Union in Ontario?

Mr Andres: In Ontario there's only right now 120-some registered as a farm business, but there is probably in excess of 200 altogether.

The Chair: Any comments, Ms Churley?

Ms Churley: One of the comments that was made, I think it was in Clinton yesterday—I asked a farmer who took a different position than you overall on intensive livestock. But he did say, when I asked him, that one of the problems is that the price of land is going up and it's making it harder and harder. Because the intensive-farming people are coming from Europe and other locations and buying the land at premium prices, there's some concern that the smaller family farm won't be able to continue to operate because of the land prices.

Mr Andres: That's a very valid concern and it's hard to know an immediate solution for that, because it's just that people who are financially more viable can compete with other people who are, unfortunately, in a less fortunate situation.

The Chair: I'll go to the PCs.

Mr Johnson: Thanks for taking the time to be here. Just quickly, though, you're suggesting that manure from intensive livestock operations should be treated similarly to human waste in cities and towns?

Mr Andres: We take this position because the fact is, when you play around with—

Mr Johnson: No, I don't need to know your reasoning. I just wanted to confirm that that's your position.

Mr Andres: I very much think so. I would even take it a bit further. In the case of ILOs, I would say it's probably even a more potent problem. I can refer in certain situations to it as toxic waste or hazardous waste even. That makes it such a difficult situation, because on the one hand you have a fairly useful, very valuable resource on the farm, and by the same token, out of a different situation, differently managed, it can be such a time bomb.

Mr Johnson: I wanted to know your position. I don't necessarily agree with it, but I wanted to know if that was your position.

Mr Andres: It's definitely that.

The Chair: Mr Andres, thank you for your presentation on behalf of the National Farmers Union. We appreciate that.

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COUNTY OF GREY

The Chair: I wish to call forward our next delegation. I'll call forward the county of Grey. Good afternoon, sir.

We have 15 minutes. If you could give us your name for Hansard, and we'll proceed.

Mr Ron Glenn: Good afternoon and welcome to the county of Grey. My name is Ron Glenn. I'm a senior planner with the county of Grey. I'll be making the presentation this afternoon on behalf of the county. The county would like to say thank you for this opportunity to provide the brief.

The agricultural industry in the province is ever changing to meet the global pressures for food production. It has never been more evident than in the recent past and now. As legislators and regulators, we too must keep in touch with the changing industry. The county of Grey supports the province in the introduction of the Nutrient Management Act.

More and more, almost commonplace, are large intensive agricultural operations, be it hog, dairy, poultry or beef, expanding on the rural landscapes of south-western Ontario. This trend has had and will continue to have fewer numbers of farmers farming larger hectares. However, with this change come the potential impacts on society, the environment and the family farm. Bigger is not always better.

At the same time as the agricultural industry has been changing the rural landscape of the province, Grey county is no exception and has experienced a move by society from the large urban centres to the rural countryside. With the rural area becoming more populated and the agricultural intensification, the stage has been set and is set for conflicts. Also, with the societal trend to move to the rural area on private wells and septic systems and the intensifying of the agricultural industry, the environment has never been at greater risk, specifically the quality of ground and surface water.

In 1998, the county of Grey introduced nutrient management planning across its boundaries. It established a peer review committee to deal not only with complaints issues but also with nutrient management plan approval. It has continued to approve those plans, and it monitors and updates them on a regular basis. The province and its member municipalities have to move quickly to address the changing and challenging issues.

The changes must be socially acceptable. They must be environmentally sustainable. Integrity must be part of the changes and education must be part of the changes. Legislation at the provincial level of government must be socially acceptable and environmentally sustainable. However, there does have to be some flexibility for county and regional diversity. Grey county is not Huron county or Perth county and that must be recognized through the legislation.

Change is inevitable; society must adapt or be part of the solution for change. Society must all be responsible stewards of the land to protect our natural features for future generations. The agricultural and non-agricultural land uses must share in the burden of society to be environmentally sustainable.

Who should participate? All farmers, all privately serviced developments, all users of commercial fertil-

izers; as an example, golf courses, parks etc. The county would suggest that the legislation as drafted has missed the commercial recreational uses. It supports the pretreatment for private services. However, has there been any analysis of the existing capacities of infrastructure to accommodate such an initiative?

How do they participate? Nutrient management plans and strategies, ongoing monitoring of privately serviced development, and environmental operations plans for recreational commercial operations.

When should they participate? There has to be a clearly established implementation timetable; clearly defined regulations of who, when and what; and what happens to the existing approved nutrient management plans. We are very aware that the regulations haven't been announced, and a lot of these issues will be announced in the regulations so we're not going to go into issues with regard to the regulations.

Where should they apply? Across the entire province, and, as I said previously, with some flexibility for county and regional diversity. Different-sized farms should be clearly defined and the implementation regulations should deal with each grouping. There has to be accountability.

Why should society participate? To keep pace with societal change; the protection of groundwater and surface water quality; societal education and acceptance; appropriate application of commercial fertilizer use and highest economic use of nutrients produced from the livestock on the farm; and rural residents' accountability to the environment.

The changes in the process must have integrity and accountability.

Benchmarking existing data: soil samples from farm and non-farm land uses; surface water quality testing prior to development; groundwater quality testing prior to development.

Monitoring: the benchmark data should be updated at a minimum of every two years; mandatory record-keeping during application of manure; and pumping of septic systems etc.

Audit: provisions should be established and resources provided to provide random audits within the mandatory two-year time period. This should include structures as well as the operation.

Enforcement: the legislation should be established that would provide an enforcement mechanism with the issue of liability being addressed.

Location criteria: there should be some flexibility established in the legislation that allows for the establishment of planning policy through county-regional official plans for the location criteria of agriculture, as is the case in all other land uses. More specifically, with the growing society change for non-farm development in the rural areas of Grey county and intensive livestock operations in non-farm development, not necessarily mixed in a certain area, the legislation should allow the flexibility in official plans to deal with those location criteria.

It should address such issues as urban or built-up areas and the location of agricultural operations; existing sensitive land uses and new intensive agricultural operations; density of animal units per hectare; spatial separation of large intensive agricultural operations; protection of surface water quality, minimum setbacks should be established; method of manure storage and technology advances; a review and a reworking of the MDS, minimum distance separation, guidelines and the incorporation of them into regulations of sort for consistent application across the province.

Definitions are required to be clear and concise.

Education: there's a very strong role for the province in the education of society with respect to agriculture and intensive agricultural industries and livestock operations, with surface and groundwater patterns and conditions; the role and function of nutrient management plans and environmental operation plans; the importance of agriculture; and the protection of surface and groundwater resources.

Legislation: the province in the existing legislation needs to expand to address the issues identified in this brief, yet be flexible enough for county and regional diversities in the implementation. The legislation suggests that there may be a third party takeover of the implementation section after a certain period. This could become a fragmented, inconsistent process.

The county and regional governments should be provided with the resources to deal with audit and monitoring access to the database suggested for implications in planning and infrastructure.

In closing, the provincial government should give real consideration to the appropriateness and locations of large-scale intensive agricultural operations—all this, considering what is at risk: an environmentally sustainable surface and groundwater supply and the risk of additional air pollution.

The legislation as drafted leaves the county with a number of questions:

How does the legislation affect official plans and zoning bylaws in the establishment of location criteria for the establishment of intensive operations?

Who is going to be responsible for the universal application and implementation of the minimum distance separation criteria?

What are the implications of the legislation on the Normal Farm Practices Protection Board and corresponding legislation?

I won't read the specifics of the clauses in the legislation that we have issue with—they are there—to state that we have some issues with some of the legislation that's drafted, with wording or questions associated to it.

The county of Grey would like to thank you for this opportunity, welcome you to Grey county—it's nice to see you in Grey county today for the presentation—and certainly entertain any questions on behalf of the county.

The Chair: Thank you. It's good to be up here. We have about a minute for each party.

Ms Churley: You raised many interesting points. I want to focus on the recommendation that real consideration should be given to the appropriateness and locations of large-scale intensive agricultural operations and the question you asked around that, how this legislation will affect the municipality's ability to deal with local issues and uses. What I wanted to say is that it's confusing because my understanding is the municipality won't be able to do anything. It will be superseded by provincial legislation. Under the right-to-farm-act, the intensive livestock operations have been included as a normal farm, and at the same time this legislation would supersede any ability for a municipality to deal with it. I recognize that you have a legitimate concern there. What do you recommend be done about it?

Mr Glenn: I think, to be honest, that the legislation should provide locational criteria to be established in upper-tier regional plans to make it consistent across the board, specifically in areas that aren't 100% agriculture-related or prime agricultural lands within the context of the provincial policy statement.

In Grey county we have a very diverse economy with regard to recreation, aggregate and agriculture, and then the non-farmland users that compete. To say carte blanche across the boundaries of Grey county that intensive agriculture is permitted as a right, subject to the MDS criteria, whatever that may be, is wrong. We're saying that the municipalities at the upper-tier, in the context of the provincial policy statement, should be able to define where large-scale intensive agricultural operations should be able to exist.

Grey county is a good example. We have an agricultural designation and a rural designation. But there is a position paper the county has released for discussion that says large-scale intensive operations should only be in the prime agricultural areas; all other rural areas should have non-intensive or less-intensive agricultural operations typical of the family farm.

The Chair: I'll go to the PCs.

Mr Murdoch: Thanks, Ron, for coming here today and bringing us this brief.

I was in Clinton yesterday too and we had a lot of different discussions. I know that the county says they welcome this legislation, but are we doing it the right way or should we be looking at something different with water quality? Should we be looking at the whole issue of water quality and groundwater and everything? Is this just piecemeal and are we maybe going at this the wrong way? Do you have some thoughts on that?

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Mr Glenn: Again, it really comes down to what the regulations are going to say and who's going to apply and what the phase-in and implementation period is going to be for the legislation. The legislation gives the minister the wide ability to affect a lot of land uses in the rural area and private services, but are the regulations going to be in place that suggest that it's going to be universal in a three-year phase-in or a five-year phase-in so that everybody's on the same footing? You can't

attack—and this has been the criticism of nutrient management—the farmers and say, "You have to do nutrient management planning," and yet the majority of the countryside is seeing privately serviced developments that have no accountability. I put my septic tank in and I don't have any requirements for monitoring it or pumping it out. It just works. There's a risk there for the environment.

I think there are some initiatives the province has put out recently with regard to groundwater studies and monitoring and the advent of those types of things that certainly can help us. But with regard to nutrient management planning, it's a living and breathing environment. Farms continue to live and breathe; so do people in the rural area. Putting this in place kind of keeps a land stewardship process and base to keep track of what's really going on. That's where the county would like to take it.

The Chair: To the Liberals. Mr Peters.

Mr Peters: Thanks for your presentation. On page 1, you point out that the stage has been set for conflicts. I think the enforcement mechanism that we put in place to deal with conflicts that are going to come up is going to be of extreme importance. Right now, though, what do you do if you've got a non-farm rural resident who has a farm that is spreading manure 50 feet away from their house and a conflict exists? The people who live in the house don't like the process of the manure being spread. What do you advise a ratepayer right now to do to deal with this conflict?

Mr Glenn: A lot of it is the good-neighbour policy between the two neighbours.

Mr Peters: But let's say you don't have a good neighbour policy?

Mr Glenn: I only can speak from the Grey county experience since we put it in place. We haven't experienced that. What we have experienced is where there has been an application come forward for a nutrient management plan because there's a new barn going up with liquid manure in proximity to the non-farm development. In Grey county we're a little bit different from everybody else because we treat the MDS as a two times factor for any non-farmland use. If you've got an agricultural operation, and in some cases it could be 3,000 feet, the barn has to be away from the non-farm land use. We've had two in the last three years where there have been 500 public people show up at an open discussion about this barn being there. The biggest issue that comes out of it is the locational criteria where the barns can be permitted.

People put up with the typical family farm that we see in Grey county. The people who move into the rural area say, "That farm was there when I was there and I can put up with the spreading of the manure or the liquid manure that's going on that farm because it was there." Now, all of a sudden, we're getting these larger intensive operations that are coming in and the non-farm people are saying, "Wait, not in my backyard," and the farming community is taking some issue with it.

The position paper that we really presented was around that whole issue of conflict between the non-farm

and the farm land users and trying to create a locational criteria of where we should put these large-scale operations. The typical family farm isn't a problem in Grey county for the spreading and application. I believe you're from Middlesex. I've lived in Middlesex and it's different there than it is here.

The Chair: We appreciate the presentation from the county of Grey.

CONCERNED CITIZENS OF CHATSWORTH

The Chair: The next delegation is from the Concerned Citizens of Chatsworth. Good afternoon, sir. We'll ask you to give us your name. We have 15 minutes. If you did want any questions, you may want to do it in 10.

Mr Dan Marshall: My name is Dan Marshall. I'm a professional engineer and a spokesperson for the Concerned Citizens of Chatsworth.

I was raised on a cash-crop farm in southwestern Ontario and currently own and participate in some farming on the 245-acre family farm down in Tilbury. For the past 12 years I have lived with my family and two boys on a rural property in a scenic area just east of the village of Chatsworth.

First, I'd like to commend the provincial government and the standing committee for undertaking this public consultation process in your endeavour to obtain information and ideas to support the development of effective legislation on this key economic, social and public-health-related issue.

My interest in nutrient management began with my involvement in our community last November in a controversy surrounding the proposal for an intensive hog operation near Chatsworth. Since then, I've been active with our local group, the Concerned Citizens of Chatsworth, and have been following and studying the emergence of intensive livestock operations and the development of nutrient management bylaws. Today, I will share with you some of our experiences in regards to our Chatsworth issue in order to give you perspective and represent some of our ideas for key issues that, in our view, the act and subsequent regulations must resolve.

We certainly see the need for province-wide standards for the management of materials containing nutrients and the need to set out the responsibilities of farmers, municipalities and provincial ministries. Within the legislation, we also see a need for a well-thought-out planning and approval process for new and expanding livestock operations. Our major concern is that the legislation could set into place a system that might be too reactive and heavy-handed, rather than being proactive and highly effective. We see the need for an open, upfront, well-planned and intelligent approach to the locating of future intensive livestock operations and the disposal of manure in order to protect our water, health and welfare.

I feel it important to share with you the perspective of our Chatsworth experience in order to relate to you how the current system is lacking and what the new legislation

regulations must address. So please bear with me while I summarize and recount some of the events regarding the proposal for an intensive livestock operation near Chatsworth since last November.

Late last November, my neighbours and I found out, by luck, approximately five days before construction was to start, that an intensive livestock operation was scheduled to be built on a sensitive watershed area—the headwaters for two major river systems, the source of drinking water for the village of Chatsworth and numerous private community wells. The area surrounding the site is a well-populated, scenic, hilly, rural residential area consisting largely of marginal farmland which had been severed off and sold for its real estate value, its property value, as building lots a long time ago. The building site where the barn was proposed contained a provincially significant wetland.

The application process was kept secret from the public. Upon 40 of us presenting a petition and asking for a hold on the issue until the building permit at the following township council meeting, we were ambushed by councillors who said they could do nothing and nothing could be done, by a contractor who stood up and quoted scripture and by a local feed company representative who told us to move over as a new farming regime was moving into our area whether we liked it or not. We were being bullied by business and political interests. People were crying. People were upset. People got mad. Our lives and our property investments were being compromised right before our very eyes. Some social justice.

We then appealed to higher authorities. Our MPP, Mr Murdoch, was not available at the time. The senior planner of Grey county turned out to be the secretary of the nutrient management peer review committee and in full support of the proposal, the director of planning for Grey county ignored our faxes and phone calls and the Minister of Agriculture's office indicated to us that a response to us would not be forthcoming for 15 days. We did not have 15 days.

As our community group got more involved and started to look at how this could happen, it was revealed that the powers that be forgot to issue the nutrient management plan for the proposal to OMAFRA for third party review in accordance with their own terms of reference for the peer review committee.

Finally, we got through to some responsible people at OMAFRA who took a close look at what was being proposed. As a professional engineer myself, I have to commend Mr George Garland of OMAFRA and his particular department for truly treating public welfare as paramount and taking a very close and responsible look at what was being proposed. The application is currently on hold.

The moral of our story is that, for the sake of social justice and protection of public health, the process framework that fosters this type of experience must be eradicated by the new legislation. In this province, there's no reason why people should have to live in fear

under the threat of losing their water and losing value in their property investments because some perceived or new way of making money off the land has come along.

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As a sequel to the story, and as we speak, there's an amendment proposed to the official plan of Grey county promoting and justifying the current approach to nutrient management planning and endorsing the peer review committee approach as a working success. We definitely must get overall control of the nutrient management process out of town.

As for some specific ideas and recommendations we would like to forward to the committee, first of all is the need for provincial leadership, process objectivity and responsible planning. The current system is too open to manipulation and tends to favour narrow economic interests at the expense of existing property and environment. We view it as essential that the provincial government take control over the process and provide a framework that will foster objectivity, the requirement for utilization of proper technical and planning expertise, in addition to assigning the necessary responsibilities and accountabilities.

The act must establish a requirement for due public process and involve all stakeholders in the planning and approval process for the location of new intensive livestock operations and the spreading of their manure.

Provincially mandated regulations and standards are essential to setting a standardized system among municipalities as opposed to the variation that currently exists among the municipalities and their various nutrient management bylaws.

The next point we'd like to present is that of being proactive rather than reactive. I know it's financially compelling for a government to set in place a delegated self-directed system of accountability and to minimize government involvement to that of enforcement, but unfortunately there will always be someone who, faced with economic pressures, will take the chance that will do irreparable damage to water and the welfare of others.

We believe it would be preferable for the provincial government to set standards and to provide guidelines to the ag business, farmers and municipalities in as upfront and positive a way as possible.

Sweeping powers to enter on to land and fine individuals seems rather threatening and heavy-handed on the reaction side. Alternatively, government resource, direction and expertise deployed to maintain a positive motivation to the industry and achieve the objectives of a productive ag business without externalizing costs to the environment or private property would be the preferable course of action.

The next point we'd like to make is that of application of the Environmental Assessment Act. There's a need to accommodate wider environmental issues into the Nutrient Management Act and regulations. The principles in environmental assessment as stipulated in the Environmental Assessment Act should be incorporated into the planning and approval process under the new Nutrient

Management Act. The Environmental Assessment Act requires approval of the Ministry of the Environment for the undertaking of new projects as well as the requirement for public notice. Both of these requirements would be most beneficial and they already exist through the Environmental Assessment Act.

Just as another point, the current system places OMAFRA in a conflicting role. How can OMAFRA be both a proponent of agriculture on one hand and a responsible environmental and social decision-maker on the other? We would suggest that the Ministry of the Environment be given the mandate and administration of this new legislation and be staffed with the resources necessary to proactively direct industry and municipalities and oversee the process.

We see the need for an immediate province-wide moratorium. In the interim, we need a provincially mandated moratorium on the development of intensive livestock operations over 50 units, which might even be too high a number in some sensitive areas. Right now there is mayhem as prospective operators and construction companies are hastily putting up as many new barns as they can before the new legislation comes out. We need only look at the growing list of communities in conflict over this issue and the number of new barns that are falling down due to inadequate design and construction standards and the lack of knowledge as to the harmful effects of liquid manure.

We feel that by the time the new legislation is passed and phased in, it will be too late, and the province, and in particular some municipalities, will be saturated with intensive livestock operations and their manure, and irreversible damage done. Given the fact that legislation on this very issue was due out last December and then shelved, it would seem responsible that the present chaos and damage that is being done should be halted immediately as a first priority, with a province-wide moratorium, to take a better look at this.

In conclusion, I would also like to suggest the need for further public consultation. We suggest it would be of benefit to hold further public hearings in the development of the regulations and guidelines as well through the provision of additional public hearings.

I thank you for allowing me to participate today. I and the Concerned Citizens of Chatsworth wish you the best of success in the development of this most essential legislation. With my remaining time, I'd be happy to engage in any questions.

The Chair: We've pretty well used up the time, unless there is a compelling need for a comment from anyone.

Mr Peters: I'd just like to understand this. When you opened your presentation, you talked about the land having been zoned for a residential subdivision. I guess the question is, very quickly, a residential subdivision on environmentally sensitive lands is OK but an intensive livestock operation on environmentally sensitive lands is not OK? Maybe I misunderstood how that was presented.

Mr Marshall: Under the official plan of Grey county, as I understand it, all new developments in environ-

mentally sensitive areas, such as those adjacent to a provincially significant wetland, would require an environmental assessment study to be done, but that was not carried out in this case for some reason.

Ms Churley: Just quickly, you mentioned that you see the need for consistent standards across the province. I assume what you're saying is that there need to be consistent minimum standards across the province that no municipality could water down but that a municipality would have access to the Planning Act so that they could plan for their own area.

Mr Marshall: Yes.

Ms Churley: OK, I just wanted to clarify that.

The Chair: Thank you, Mr Marshall, on behalf of the Concerned Citizens of Chatsworth. We appreciate your input.

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TOWN OF MONO

The Chair: I wish to call forward the town of Mono. Good afternoon, sir. We'll ask you to identify yourself for Hansard. We have 15 minutes. If you want, you can make it shorter and allow questions.

Mr John Creelman: My name is John Creelman and I'm the mayor of the town of Mono and currently the warden of Dufferin county. My municipality has a population of around 6,500 people and is just outside the GTA, north of Peel region. According to the latest statistics, we have just over 30,000 acres of farmland, out of a total of 65,000 acres, and 218 farms with an average size of 137.8 acres.

Today I would like to raise several distinct issues regarding this proposed act and the activity it intends to regulate.

First, Bill 81 fails to address one area of serious municipal interest. Large-scale intensive farming operations, by their very nature, attract accessory uses—feed mills, for example. We have a large intensive farming operation in Mono, and you must know that its feed processing plant generates as much concern and complaint as the livestock portion of the operation. The argument is—and it is valid to a point—that processing feed on site makes for convenience and economy, but in the example previously cited, the feed processed is well beyond the quantity needed for the animals on site. This excess feed, we understand, goes to feeding cattle destined for the site for finishing and to other operations under the control of the owner. As a result, the operation escapes being considered commercial, with all of the attendant implications of this, such as proper land use planning, site controls, potential development charges and a very different tax treatment, if it were classed industrial/commercial rather than as a farm.

Now, I am sure someone will tell me that we are free to take our chances with a bylaw to address these planning issues and attempt to impose an appropriate site plan agreement. But this legislation is clear in its deter-

mination to impose province-wide standards while at the same time overruling local prerogative.

We appreciate the need for consistency and certainty when it comes to farm practice. At the same time, however, there is a need for locally driven rules regarding landscaping, lighting, road improvements and, I would argue, hours of operation when truck traffic and noises emanating from something like a feed mill are affecting neighbours. The one-size-fits-all approach on these matters as determined by the bill and/or its regulations won't work.

Bill 81 intends to define what normal farm practices are. If it is determined that municipalities have no right to ask for a site plan that should be no more onerous than one we might expect if the accessory use was a stand-alone operation in an appropriately zoned setting, we will have a problem.

I would further submit that municipalities should not be at the continued mercy of the farm practices board when it comes to the issue of site planning control. Again, we are asking for the specific right to site-plan to local standards and expectations, but no more rigorously than if comparable operations were located elsewhere in our municipality.

Another issue, possibly beyond the scope of this committee but worthy of comment nevertheless, is that large-scale operations bring with them large-scale impacts on surrounding areas and municipal services. Collection of only 25% of potential property taxation on these farming operations in no way comes close to addressing local road impacts, let alone anything else. For example, it will take over 10 years in tax revenue from our one intensive farming operation to recover the cost of implementing an interim control bylaw, hiring the necessary consultants and producing a study and bylaw, not to mention defending ourselves before the OMB—and we are currently there. I suspect—in fact I know—that many of these operations pay no more in municipal property tax than that paid by owners of large homes in the municipalities yet present a call on services far greater than any residential property.

Finally, several other issues: it came as a shock to me recently to discover that while MOE permits to take water are required for agricultural irrigation, they are not required for other agricultural activities, including watering livestock, provided no storage is involved. Even then, I'm told, many operations don't have water-taking permits. This needs to be addressed immediately, if not by this bill, by other means. Intensive, large-scale operations must be drawing huge quantities of water out of the ground and from surface waters. Unmonitored and done without regard to impact, we are heading for potential disaster.

Also, I have some difficulty with the apparent philosophy of this bill that size and scale of an operation do not matter so much as how it operates. I appreciate that a small, poorly run operation can have a greater deleterious impact than a large one. What worries me, however, is that scale and size of operations do matter in the context

of the local neighbourhood. Moreover, an appropriate size of operation can become totally inappropriate in a local context if expanded.

There were good reasons for municipalities attempting to cap the size of intensive farming operations, and they had nothing to do with NIMBYism and everything to do with simple, well-thought-out land use planning. This bill, as currently written, potentially overrides good land use planning.

Finally, and in conclusion, I am alarmed by the fact that any legislation with the broad ambitions of this bill can be introduced and debated without the simultaneous disclosure of its regulations. A quarter century ago, the late MPP and former judge Margaret Campbell warned about government by regulation. Regulations under this act will determine almost everything of importance. It is tragic that we now seem to take for granted the fact that regulations, and not publicly debated legislation, really determine how we are governed.

Thank you very much for your time. I'd be happy to take any questions.

The Chair: You've left just under two minutes for questions. We'll begin with the NDP.

Ms Churley: Thank you very much for your presentation. You focused a lot on the large intensive farms. I think you make a good case for why municipalities need to have the ability to manage some land use. That's an important point.

I wanted to ask you some questions around what you know about how an intensive farm works. You talked about some of it, but for instance, employees. It's not a family farm so there are people hired, I assume, from around the neighbourhood who come in, what, on 9-to-5 shift work? Sometimes it's called a factory farm. Is it run like a factory? Does it come under labour laws? How does it work?

Mr Creelman: I'm not an expert in the operation of these facilities. All I can speak to is the one in my own municipality. It is well run, it is efficiently run. It probably employs fewer people than we imagine. The accessory use, that being the feed processing plant, is in fact running almost 18 hours a day. Theoretically, it could run 24 hours a day, given enough shifts. That of course has an impact on the local neighbourhood, roads and so forth.

We feel powerless right now to do very much about it because, as I said, we are at the mercy of the farm practices board, we are at the mercy of being taken to the OMB. We simply want to impose a site plan agreement that we would do if this was a stand-alone operation in an appropriately zoned area.

Mr Murdoch: A couple of things: first, I know you're concerned about the taxation. I believe I'm right that they do tax farm buildings and the acre, or whatever it happens to be, around that. That opens up a whole new act that we have on taxes for a farming community. I don't know how you distinguish one from another. That's been set for a long time, so the municipalities haven't got a bigger tax base from farming operations up until this

point, even though we changed it. That's just one thing. I know your concern and I can see where you could be.

The other one that I want to get on is that I agree with you about this being governed by regulation, and that certainly has happened over the last 11 years that I've been at Queen's Park. It seems to be the way it's being done. It's not any one government; they all seem to like to do that and it's unfortunate.

I just talked to Tina here. She has been with, unfortunately, what's just a government committee—although I think all parties should be involved; in this case they aren't, but at least it's a start—on the regulations for the tax credit in the school system, for Christian schools and independent schools. So they are out consulting on it before the regulations are there.

Ms Churley: Behind closed doors, Tory members only.

Mr Murdoch: That's what I said, Marilyn. I said it's unfortunate—

Interjection.

Mr Murdoch: Listen to me, Marilyn. You don't have to in the House, but you can here.

Anyway, they are doing that. It's unfortunate, as I said, and I would rather see all parties involved because the other parties do have some good ideas. I sat in opposition so I understand that.

I would hope that with this bill, because it is far-reaching and a lot of things, we do that. I will push for that—I hope the opposition will; I know other members in our caucus will—that somehow, before the regulations are set, we go back on the road and ask people. We can draft a set of regulations as to how the government thinks it should run, but they shouldn't be adopted until we at least go out and hear that. We've heard that from nearly all the presentations too, so hopefully the government listens when it comes to that.

I just want to say that I agree, it's really bad. Sometimes you see a bill in the House and it means absolutely nothing the way it sits until the regulations come out, and then it's a whole different ball game. Then they expect us to vote for these bills, before we see the regulations. They expect us to do that too. I don't agree with that either. Maybe it's going to take some people not voting for some bills before we have the regulations and we change it.

It's not one government; it's all governments. It seems to be the way Queen's Park is run.

Mr Peters: I appreciate hearing Mr Murdoch's comments. He's turning out to be one of the best friends of opposition. Thanks, Bill.

You raise an interesting point, Your Worship. Right now, if a food processing plant chose to open up in your municipality, it would be subject to your site plan control committee. What you're arguing is that if we're going to have a food processing plant subject to a site plan control application, then a food production facility should be subject to the same things. Is that what you're saying?

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Mr Creelman: What I'm saying is that first and foremost it would be directed to an appropriately zoned

part of the municipality for that kind of activity. Because this is accessory to the farming operation, because it serves the farming operation, it gets in under the cover of the "farm" in a location which may or may not be appropriate for that kind of activity. It escapes the traditional site plan control regime that we have in place, it escapes development charges and it escapes the kind of arrangements that the municipality negotiates surrounding road improvements and that kind of thing because it is under the envelope of the large-scale farming operation. I think we're going to see more and more of this.

The Chair: Thank you, Mayor Creelman. We appreciate that presentation from the town of Mono.

ONTARIO FOREST INDUSTRIES ASSOCIATION

The Chair: Our next delegation is the Ontario Forest Industries Association. Good afternoon, sir.

Mr Craig Gammie: Mr Chairman, committee members, my name is Craig Gammie. I'm manager of environment and energy with the Ontario Forest Industries Association. It's an association representing 17 member companies performing forestry operations and manufacturing pulp, paper, paperboard, lumber, plywood, panelboard and veneer. In 1999, the Ontario forest products sector had sales of \$14 billion, international exports of \$8.9 billion and employed about 75,000 Ontarians.

As an industry we are committed to good stewardship of our air, water and land resources and have an excellent continual environmental improvement record. Our record is evidenced by two things, our spending and our accomplishments. Our spending on capital and environmental expenditures averaged \$86 million over the last 10 years. It is very high compared to other sectors.

Our accomplishments include a 92% reduction in chlorinated organics into the water effluent; dioxin and furan reduced by almost 100%; total reduced sulphur, which is the odour from pulp mills, reduced by 78%; waste paper usage up significantly so that the average recycled content of a piece of paper or cardboard that you see in Ontario has gone from 17% to 43% in 1998.

Pulp and paper mills have also turned most of the organic material that used to go into the receiving waters—streams and lakes—into a beneficial product that we call pulp and paper biosolids.

Here's how: trees are made of cellulose fibres which are the building blocks of trees, and lignin, which binds the fibres together. To make paper we chemically or mechanically separate the fibres in a water medium and then we literally put them back together in various forms as paper and paperboard. But not all of the tree components, not all of the lignin and fibres, make it into the paper. Some of the lignin and fibres go into what we call the mill effluent stream.

The lignin material is mostly dissolved; the fibrous material is mostly not. Years ago, much of the effluent, complete with lignin, went directly into surface water. At that time, the dissolved material was then naturally

digested in the receiving water, taking up oxygen and sometimes reducing oxygen levels enough to affect fish populations. We quantified this material. We called it BOD or biochemical oxygen demand. In the late 1960s, the collective mills put 800,000 kilograms of BOD per day in receiving waters. I checked this number. It seems like a lot, but I checked this number and it is right. Marilyn would know that.

Ms Churley: I do.

Mr Gammie: The fibrous material mostly settled on the bottom of surface water bodies, sometimes choking out bottom-living organisms and sometimes affecting other organisms which fed on them. We quantified this material and called it TSS, or total suspended solids. Again, in the 1960s, 400,000 kilograms per day of TSS went into the receiving waters.

Over 25 years this has all changed. Pulp mills recovered much of the waste lignin before it got to the effluent stream. It makes a great fuel. Suspended solids were extracted from the effluent stream and recovered and most of the remaining dissolved solids were biologically converted to suspended solids, settled out and recovered.

With these changes, BOD from 1968 was reduced by 98% and total suspended solids were reduced by 94%. There are no longer any measurable effects in the waters from these things.

So we addressed the effluent issue, but by taking these solids out of the effluent we now have a landfill issue and we added the recycling, which increased. That produces solids somewhat similar and made this pile of solids to landfill even bigger. At that time, about 300,000 dry tonnes per year went to landfill.

We very quickly figured out that we had on hand not so much a solid waste problem, but rather a solid waste reduction opportunity, because the material could be used to benefit in both agriculture and silviculture. It had value as a soil amendment, as a soil builder, for erosion control, for weed control, as a water retention enhancer. But perhaps most importantly, it contained nutrients and could often substitute or amend commercial fertilizer and significantly reduce costs.

Mills set out to try to divert as much as possible and we started calling the material pulp and paper biosolids, and anybody who asks me a question about sludge, I probably won't answer.

We recognized that a good measure of care was required to ensure that environmental risk was minimized or eliminated and that use was actually of benefit. It wasn't enough just to divert it from landfill. We supported and encouraged sensible governance, or regulation if you like, as something which would encourage and facilitate, rather than inhibit, increased beneficial use. And for pulp and paper biosolids we have that governance. Approvals are required by section 27 of the Environmental Protection Act. A guideline covering the use of biosolids—this is classified as waste biosolids, not just pulp and paper—in agriculture provides a base for all certificates of approval. That's a guideline produced by

OMAFRA and the MOE. Subsection 15(6) of regulation 347—which is the waste regulation—provides further governance. Finally, the Ontario Forest Industries Association, with help from MOE, MNR and OMAFRA, has produced a guideline specifically for beneficial use of pulp and paper in silviculture and pit rehabilitation. We are just completing one similar for use in agriculture.

If there is one thing that the current governance does not address, it is the integration of pulp and paper biosolids with other nutrients, which we see as something that makes a lot of sense. The Nutrient Management Act provides for this integration around the concept of nutrient management plans, and we support that concept.

We should note to you that with respect to pulp and paper solids, most or all of the other mechanisms that are enabled by Bill 81 are also enabled by the Environmental Protection Act, simply because pulp and paper biosolids are currently classified as a waste under that act, and there are in the Environmental Protection Act many, and we believe sufficient, enabling clauses around waste.

So we will need to be very careful with the Nutrient Management Act and its regulations that we don't end up developing unnecessary regulations or approvals duplicating the Environmental Protection Act. MOE officials are aware of this possible duplication and have assured us that care will be taken. It just would not be appropriate if an applicator, using pulp and paper biosolids, went through the rigorous process of getting a certificate of approval that might have 40 different, very stringent, conditions, and then have enforcement officers come out and make sure that they're adhering to those conditions, and then also have to have a nutrient management plan with exactly the same 40 conditions, and some other inspector come out and watch it. We have to avoid that situation.

One way that we might consider avoiding duplication is by reclassifying pulp and paper biosolids from a waste to a nutrient, which would then take pulp and paper biosolids out of Environmental Protection Act governance and instead govern them through the Nutrient Management Act.

We support the Nutrient Management Act and are pleased that we have the opportunity to participate fully in the development of regulations. By the way, we don't have the same feeling about enabling legislation. We think it's the only way that works. The Environmental Protection Act and many other acts in Ontario are full of it and I don't see how a government could operate without it. There's every opportunity for associations and others to participate in the regulations. In fact, we have anticipated the regulations that might come out of the Nutrient Management Act, and we've already made several submissions to the Ministry of the Environment, which we can share with everybody.

I'd just like to share with you a few of the issues. I won't go into our recommendations. Some of the issues that we see are whether to have combined or separate guidelines—read regulations—for municipal sludge, pulp and paper biosolids and other organic material or nutri-

ents; we are going to take a position about winter spreading, storage guidelines and pathogen guidelines, which is a big issue with us.

I'll just leave it there. If there are any questions, I'd be glad to entertain them.

1410

The Chair: Fine. Thank you, Mr Gammie. That leaves just under two minutes for each party. We now in rotation go to the PCs.

Mr Johnson: Mr Gammie, I'm not an expert in forests and so on, but I know trees, and I know some farms are using old sawdust and shavings as bedding material, as an absorption for—what we think of as nutrients—manure. I assume it would be spread on the land and so on. Sawdust and shavings, are those waste?

Mr Gammie: Under the act?

Mr Johnson: Yes.

Mr Gammie: Yes, they are. They're wastes. Actually, I'm not sure I know the answer to that.

Mr Johnson: OK.

Mr Gammie: I think it depends where they go, whether you classify—I think they are classified as waste, yes.

Mr Johnson: Do you live in an urban area?

Mr Gammie: I do.

Mr Johnson: OK. I was going to ask you if this is a suitable usage as far as you're concerned.

Mr Gammie: Absolutely. It's an ancient usage. Sawdust is, in my view, essentially benign.

Mr Johnson: Did you ask the officials from the Ministry of the Environment whom you were talking with about the change of forest waste to nutrients, whether they had any concerns?

Mr Gammie: It's not really a change, because there's no intent on the part of either ministry to stop calling pulp and paper biosolids—by the way, sawdust is not included as a nutrient under this; it's not being considered as a nutrient; it's pulp and paper biosolids, from the pulp and paper mills. But there's no intent at this point to stop classifying those pulp and paper biosolids as a waste and to take them out of the Environmental Protection Act or to take them out of the approvals process. That's OK with us as long as we don't duplicate those approvals exactly and directly, unnecessarily, with the Nutrient Management Act, which also has an approvals and regulations component. Does that answer your question?

Mr Johnson: Yes, thank you.

The Chair: We go to the Liberal Party.

Mr Peters: Thanks very much. Something that's common to rural Ontario is local gun clubs, and we're seeing an increasing number of berms for these gun clubs that are being constructed by pulp and paper mill biosolids. One of the things that has come to my attention is that there has been a practice of adding sand to pulp and paper mill biosolids or sludge, which in turn then redefines this as a product and leads to exempting these gun club berms from a number of MOE provisions.

Can you tell me what sand does to change the nature of this product?

Mr Gammie: I should point out that in pulp and paper biosolids, from the process—some of them—there is a certain measure of clay-like materials, of calcium-based materials, of lime-based materials; and certainly in the biosolids from recycling mills, there is more than just organic material. I am not aware of either the practice of using them for berms or adding sand to them, but I can't see that it would do any harm. I'm surprised that there are any exemptions because of that. I'm surprised.

Ms Churley: Thank you very much for your presentation. So how's the zero discharge for organochlorines going? I think we put in "by the year 2002"; is that correct?

Mr Gammie: By the year 2002; that's outside the Nutrient Management Act.

Ms Churley: Absolutely, but I thought I'd use this opportunity to—

Mr Gammie: But there has been a huge reduction so that all mills are well below, and the average is way, way below the current limit. No, equipment is not being installed to get to zero. But with the big reduction in organochlorines and all the process changes that are made, it has not only reduced the amount but it has changed the nature of the chlorinated organics in the effluent stream such that they are essentially benign.

Ms Churley: Our government brought that in for the year 2002. Has that been lifted by the present government, or is that still in force? You're supposed to be at zero discharge by 2002, right?

Mr Gammie: The clauses in the regulation that you're thinking of have not been removed.

Ms Churley: OK, good, they did something right. We'll see.

The Chair: On behalf of the committee, I wish to thank Ontario Forest Industries for their submission.

Mr Gammie: Thank you for the opportunity.

GREY COUNTY SOIL AND CROP IMPROVEMENT ASSOCIATION

The Chair: We now call forward the Grey County Soil and Crop Improvement Association. We have 15 minutes. You may want to leave extra time for questions. We'll ask for your name for Hansard, please.

Mr Ray Robertson: My name is Ray Robertson. I'm a farmer from near Markdale. I'm secretary-treasurer of the Grey County Soil and Crop Improvement Association, which I represent here today. I also serve as manager of the Grey County Agricultural Services Centre in Markdale.

The Grey County Soil and Crop Improvement Association welcomes the opportunity to comment on the proposed Nutrient Management Act of 2001. We certainly appreciate the considerable work and consultation with varied spokespeople across the agricultural sector as this act is being drafted. We hope our voice will be welcomed in the future as guidelines are proposed. Agri-

culture is the largest industry in Grey county, so this sector is key to the ongoing prosperity of our communities.

The vast majority of farmers are good environmental stewards of the land and want to take appropriate action. Having said that, it may be beyond the financial capabilities of many farmers, without the help of significant grant assistance programs. Since this is one area where all of society benefits, it seems fitting that all of society should help fund the requirements that have been alluded to under the proposed higher standards.

The environmental farm plan program has been well supported by the farming community in Grey county and across Ontario. Over 1,200 farmers in Grey county alone have participated in the Grey county workshops. We support permanent funding of EFP, as it would also be a good program for delivering funding related to new regulations for agricultural operations.

In Grey county, we have in place a nutrient management review committee with county government, public and farmer representation that reviews all proposed buildings or additions where liquid manure is to be handled. We believe committees of this type are the appropriate first step for citizens with concerns about environmental practices on farms and for farmers wishing to expand or change their farming enterprise.

We doubt that the Ministry of the Environment is the appropriate body to enforce this act. In fact, when local municipalities and citizens have voiced concerns about heavy metal concentrations in sewage sludge trucked from urban centres being spread on agricultural land in Grey, the MOE has overruled. They appear to view agricultural land as a safe place to spread and dilute the problem, rather than as foodland, where anything applied will become part of the quality food products our consumers expect and deserve. Therefore, we believe enforcement should be the responsibility of OMAFRA or an independent third party.

The Grey County Soil and Crop Improvement Association is pleased with the new provincial rules defined by this act, which will be consistent across the province and supersede municipal bylaws. At present in Grey and in neighbouring counties, we must deal with a hodgepodge of municipal regulations or moratoriums that affect what can be done on one location versus another.

In Grey county we have predominately small farms, with less than 50 animal units, with low-density animal units per acre. These farmers are utilizing 100-year-old bank barns, and pasturing is the principal use of their acreage. Most of the manure is dispersed as the animals graze, with a small accumulation of dry manure during winter months. The environmental risk from these operations is generally low, so we feel there should be a minimum number of animal units and a minimum animal-units-per-acre density before participation under the act is mandatory. As these operations are purchased by larger farming operations or renovations or new structures undertaken, the necessary documentation would be completed prior to getting the required permits.

1420

A concern arises with the requirement of a licence to spread a few loads of dry manure from such operations with many acres available. The total nutrient value of the manure may be less than the fertilizer applied to some rural estate lawns each year. The requirement that all documentation and records related to this act, including management of materials containing nutrients, be kept in electronic format is also a concern. Most of our small farmers are older and don't have computers, while some, such as the Amish community, for example, don't even have hydro. We feel exemptions for small operators is better for everyone than non-compliance, supported by the view that the act is inappropriate in these cases.

The Grey County Soil and Crop Improvement Association supports reducing access of livestock to watercourses where obvious degradation problems are evident. We are confident that it will improve bank stability, as well as improving the water quality available to the livestock and wildlife utilizing it. In the cases of fordable watercourses, such as creeks and ditches which dissect farms, functional water crossings and access to water for livestock are a necessity.

The Grey County Soil and Crop Improvement Association has played a lead role in spearheading water quality improvement projects. Between 1993 and 1997, 120 individual projects were completed in the Bighead River watershed, and now the Beaver River watershed is a focal point under which our other program is functioning.

Considerable positive work has been done to improve water quality in our surface watercourses. For example, along the Bighead and Beaver rivers, much of the livestock had been fenced away from the streams, allowing a buffer strip along the watercourse. Stream crossing zones have been stabilized using concrete slatted flooring in the stream bed so that the livestock do not disturb the stream bed when they cross. The placement of the concrete slatting in the stream bed does not restrict water flow in either flood or low-water times. Crossings at stream bed grade are also less intrusive than either low-level or high-level bridging, because in flood times the water may wash away the bridging structure or the structure dams or reduces the water flow, and the higher water above the structures erodes the banks, creating a new bank erosion problem. These stream bed crossings provide a dependable, limited access point for livestock to water, without harming the banks or the quality of water.

Water quality must extend much further than just the agricultural sector. The same requirements must be directed to others and include municipal waste systems, private sewage and septic systems, or the lack of them, and of course industrial companies.

To make our final submission here, I have a few points I would like to make.

First of all, it's our feeling that Bill 81 should supersede municipal bylaws, thus creating uniform legislation across Ontario, but at the same time allow some room for regional diversity. I think it has been mentioned before

that Grey county is certainly different from many counties in southwestern Ontario, so I think there's opportunity for some diversification in that to service the needs of the farm community here in Grey.

We must have opportunity for input from the farm community before any final legislation is enacted.

Third, the legislation must be appropriate to provide for a sustainable and profitable agriculture industry.

Fourth, the provincial grant program must be implemented to assist in funding the requirements.

That's briefly our report. I certainly want to thank you for the opportunity to represent the Grey County Soil and Crop Improvement Association.

The Chair: Thank you, Mr Robertson. That gives us about two minutes for each party for questions. We now rotate back to the Liberal Party.

Mr Peters: Ray, thank you very much for your presentation today. As we travel around, this being our sixth stop, there has been a great deal of debate over the enforcement question, MOE or OMAFRA. You lay on the table here an independent third party. Could you elaborate on who this independent third party for enforcement could be?

Mr Robertson: I think we do in Grey county's outline; I think you've heard it here before. Certainly there is a nutrient management planning system in the county here that could very well serve a role there. I don't want to specify people at this point, but certainly there are people who could be placed on that who would have, I think, a realistic view.

Mr Peters: Is the conservation authority one of those?

Mr Robertson: I would say not, but that's my humble opinion. I think you need somebody who's highly respected by the farm community.

The Chair: We'll move to the NDP.

Ms Churley: I guess you inadvertently said that the conservation authority isn't highly respected by the farm community.

Mr Robertson: I didn't say that.

Ms Churley: I know. I wanted to give you the opportunity to say you didn't say that. I'm interested in following up on that, but I don't have time and I wanted to ask you a different question.

This is another bone of contention. People are really divided on it, although most of the farm community—not all, to be fair—have said very clearly that they want to see provincial legislation overriding municipal bylaws. Now, you did give a caveat that you felt there needs to be some flexibility for municipalities, and I'm glad you said that, because it seems to me there has to be or, as I said earlier today, all hell is going to break loose.

Do you have any idea at this point of how you see that unfolding: what kind of role; under what circumstances municipalities would have that power? Would it come under the Planning Act, for instance? How do you see it working?

Mr Robertson: Having not been involved with politics to any great extent, I'm not sure just how that would be—

Ms Churley: You're lucky.

Mr Robertson: —but I'm sure there's a way. I think through a hearing process, as we go through the actual drafting of legislation, there must be a mechanism to incorporate that into it. I feel very strongly. As I say, Grey county is somewhat different. It's unique in many ways from, say, southwestern Ontario and down in the cash-cropping areas and whatnot. There's definitely a need to do that, and I think it can be done.

Ms Churley: Do I have time for another one?

The Chair: Quickly.

Ms Churley: Your last point about a provincial grant program—would you say that while we're working through this process in developing regulations and what-ever, which might take some time, that it would be useful for the government to come forward with some funding programs now? For instance, bring back something like the CURB program and enhance some of the other programs so that farmers can get on with things, even before the law comes into being.

Mr Robertson: I'm really glad you asked that question, Marilyn, because it's something I feel very strongly about. We currently have a whole hodgepodge of programs going on all across Ontario. Even people within a county don't understand those. I have to say we've had some really good programs in this area and I'm sure others areas across the province, but I've always said it should be a provincial mandate to do that. I view the healthy futures program that the current government has been involved with—\$90 million announced, which created headlines back three or four years ago. As of last April, I had direct information that \$7 million of that \$90 million had been allocated. Since then, I think there have been more applications come in, but it's been extremely hard to get—

Ms Churley: Hard to get access.

Mr Robertson: Nobody can get access to it, and most of the applications come from volunteers like myself. I don't mind doing volunteer work, but there's no point in me spinning my wheels doing volunteer work and getting the landowners in the municipality all excited about some project, just to be told it's not going to be approved.

Ms Churley: We'll have to fix that.

Mr Robertson: I see that as an opportunity for the provincial government to actually utilize some of the balance of that \$90 million to implement a program that would be extremely helpful and done as a provincial program across Ontario.

Ms Churley: Thank you.

The Chair: I'll go to the Conservatives.

Mr Murdoch: Thanks for coming, Ray. I appreciate that and I mainly agree with all the points you've put out; that is, I agree in principle that we need this law. I think most people in principle think it's something we need. But I'd like you to just tell us how important it is anyway that people like yourself and the other people who have been here have a chance to talk on the regulations before they become law.

Mr Robertson: I think it's extremely important to have input on that, because the act, as I understand it—again, I'm not a Philadelphia lawyer to understand these things, but it looks like an extremely intrusive act that has sweeping powers we've never seen before, and unless there's some direct input from the rural communities, it may be very difficult to live within and maintain a viable agricultural industry in this province. I'm sure I share your views on that, Bill, that that's the last thing we need in this country.

Mr Murdoch: Yes. That's good. Thanks.

The Chair: Thank you, Mr Robertson. We appreciate that presentation from Soil and Crop.

PERTH COUNTY AGRICULTURAL PEER REVIEW COMMITTEE

The Chair: Our next delegation scheduled is the Perth County Agricultural Peer Review Committee. Good afternoon, sir. You have 15 minutes. You may want to leave some time for questions, and we'll get your name for Hansard, please.

Mr Russell Danbrook: I am Russ Danbrook. I'm a pork producer in Perth county. By definition, I guess I would have an intensive farm operation. The last four years I've been chair of the ag review committee in the county of Perth. I've been involved with it since its inception in the county as far back as 1995-96. I'm a director of the Perth County Pork Producers. I'm a member of the environmental committee for Ontario Pork Producers, and a concerned citizen, I suppose, if that would round everything out.

I have two shorter presentations today. The one presentation regards the recommendations I have for your committee with the response teams, and the other one is to do with the Perth County Pork Producers. I can't get half an hour for that, though.

1430

The Chair: No.

Ms Churley: Nice try.

Mr Danbrook: I guess the first thing to be considered when we start talking about the environmental response teams is that they work. My county agreed to that in their presentation. I have seen it first-hand. I have done the calls. I have delegated calls to others within my community, within the program, who have sat on the committee that we have in Perth, and it just flat-out works.

One of the things we're pleased to see is that the proposed legislation will continue to include the concept of CERTs. There might be a bit of ambiguity here. We're talking about the agricultural peer review committee and we slip over to CERTs. One is just a different acronym for what we established a few years ago and actually made as a presentation to Noble Villeneuve. CERTs are the community environmental response teams, so that's what I'm alluding to here if I go back and forth.

I think the province needs to maintain the responsibility for the training of the CERTs to define a consistent role and to ensure uniformity of application across the

province. Failing to do this, we'll continue to have a hodgepodge of rules at the municipal level and certainly not take an approach that's consistent with the farming community province-wide.

Another thing I believe is that CERTs should be created at the municipal level and should be created to reflect specific community or municipal needs within the makeup of the committee. When we did it in Perth, we weren't under the pressure that an awful lot of municipalities are today, which is partly thinking with their heart. Because the pressure wasn't quite so great back then, we had the luxury of just using our heads, I suppose, which might indicate that others haven't, but they've certainly had to have their heart involved. We have a different committee makeup for that reason. It actually has more commodity memberships and no members of the public. Some committees developed today would probably see a need for either political intervention at the municipal level or certainly citizens being on board with this.

The CERT teams should continue to be a committee of municipal governments and should report to the appropriate county or municipality. That's important. Mr Barrett is gone now, but he did an interview yesterday with CKNX that I heard on my way here, and one of the things he was concerned about was how we maintain the local flavour in this legislation. We can maintain that, I believe, fairly well because folks like myself who have taken on this role are knowledgeable about the conditions in our county, knowledgeable about water levels, water tables and soil types. We're also aware of the list of characters, I suppose, or the citizens, and what their approaches might be, and our attitudes toward them will certainly be reflected. So the local component can quite well be met by the fact that we have the CERTs.

Municipal counties or governments should encourage cross-commodity representation. It's important that we have the commodities buy into this process. The reason I say that is that they're knowledgeable and it's a good pool of people who have a good grasp of the issues within the local counties. The cross-commodity representation certainly ensures that we can touch first-hand all aspects of livestock production as it would apply, and certainly should be encouraged.

I know when we go out and talk to farmers, the fact that I'm a farmer talking to them brings that wall between us down fairly quickly, as opposed to some bureaucrat or somebody from farther off. We can empathize without being judgmental; we can also be objective, because we know right from wrong. We know if overspreading or overapplication has happened, or if there's some other problem. It's an important component and I would hope to see it continue.

The role of the CERTs will evolve, but the base function should primarily focus on dispute mediation on behalf of the municipality between farmers and complainants.

There are other things we will get into in other communities. In fact, the township of Minto in Wellington

county uses their peer review committee—again another term here—to review nutrient management plans. I think the one thing we need to recognize is that five or six years ago we were not even talking about nutrient management plans, so the evolving issues that will come up and be addressed will have to be recognized by an evolving committee.

That's pretty much all I have to say on the development of the CERTs, other than to congratulate the government on including it, and hopefully it stays.

As a pork producer in Perth county and a director, I'm one of about 900 to 1,000 producers in Perth. I suppose our base position would be that we totally agree with the position of Ontario Pork and appreciate the opportunity to reinforce their general position.

One of the things we would hope to recognize here today or emphasize here today is that this legislation will have a higher impact on the family farm than it does on what you think of as the corporate or factory farm. Far and away the majority of our farmers are family farmers. I am myself. Most of the others I know of would fall into that category. Some use labour; some family farms are factory farms by their size and by what your definition was earlier. I can't disagree with what your analogy was there.

Some of the recommendations we hope would continue to be taken into regard here are:

Municipal governments should not be allowed to supersede this proposed legislation either by amendment capability or by the creation of their own bylaws. It's fairly straightforward, what we believe. I guess you have to be in the minority as much as farmers are to respect or understand that position. We make up 3% of the population. We don't, through amalgamation and other things out there, have as big a voice as we used to have on municipal governments. In the past number of years, I've seen people standing up and saying, "I might not know much about bridges, I might not know much about roads, but by Jeez, I'm going to stop those big farms." That's unfortunate, because what it does is put more pressure on other municipalities across this province when you move or force livestock to be moved around the province.

The omission or the exclusion of factors that could alter or diminish the authority of this legislation should not be allowed to compromise the intent of this legislation. Mr Coburn said previously many times that it will not supersede, but we're concerned that if some areas are not addressed, then a municipality could go ahead, for instance, and do something without actually superseding the law which would still have the effect of contravening or diminishing this law.

I think if we as farmers are to give the support we have been asked to give or that we're willing to give, it must be recognized that this support would have to be qualified—we're somewhat reserved, I suppose—and be more contingent on what the regulations say down the road. It's kind of like being the blind man with the dog. You trust his judgment. You'd better hope he knows where he's going. We have a strong feeling about the fact

that the regulations could alter, or certainly are going to temper, our ability to support this overall legislation.

The legislation must include an appeal mechanism to address or redress individual interpretations or inequities of operation. There are going to be situations out there that require farmers to alter behaviour, for lack of a better way of saying it, and we want to be sure they have that opportunity if in fact they think this legislation is wronging them. That, to me, becomes an important one as well.
1440

I'm getting out of order here; I'm sorry. But municipalities whose official plan recognizes agriculture and agricultural designations within their jurisdiction shall continue to recognize these designations where applicable.

The one thing that I think we have to get used to in Ontario is what you're seeing with the larger operations, whether it be livestock barns or cash crop farms or whatever: agriculture is getting bigger. That's the face of agriculture. That's the reality today. I can't change it, and we can't go back, because of the margins that we're faced with, because of the economic conditions that we're faced with in this province, the pressures the farmers are under. We can't go back to the nice little bank barn which even my wife would say is a lot more idealistic and prettier to look at than the newer ones. We haven't got that luxury. And I would make a strong case for the fact that the farmers who are allowed to be economically viable in this province are the ones who can be the most responsible when it comes to the environment. So I guess I want to reiterate the fact that what you're seeing is the face of agriculture.

What we need to do to make this better is reflective of what we're doing here today. Education about this legislation should be vital to the implementation and should be an ongoing responsibility of the provincial government. That education has to start right at the farm. We as farmers need to know that we've got to go get the building permit well in advance of the machinery pulling in to do the digging. That hasn't happened in the past. We need inspectors who know what they're doing when they come to our farms. We need to know that if they see something brown running toward the river, it isn't a Jersey cow, for instance, or something to that effect. So that becomes important.

Inspection and enforcement of regulations should be a function of the MOE. That's my belief. That's what we've come up with in Perth county. It's a little more clear than what the Ontario role is, but it's definite.

We also think that auditing of nutrient management plans should continue to be a role of OMAFRA, and OMAFRA should make a long-term commitment to this role.

The legislation must take a graduated approach in its implementation, with the degree of risk being the underlying priority. I didn't say that really well when I look back on it and see it in writing, but we need to be concerned about the farmers who are putting this province at risk, and that's the direction.

Provincial governments should take the opportunity to find the resources to offset the implementation costs of the creation of this legislation. Where I would go with that is to use the example of water bottling companies, for-profit companies that are taking water out of this province. If a cent a litre was put on a bottle of Dasani or something like that, I don't know that it would change it, but it would go a long way to coming back and putting the money in place to do the other projects that need to be done, the abandonment of wells and the other things. The argument I would make for that sort of surtax, if you will, would simply be that those companies will be better in the long run if we have better water in this province, so they are actually protecting their own or they are being responsible by being asked to do that.

It looks like I've got two points the same there, so I'll just go to the last one. Nutrient management plans should be seen as evolutionary in nature, capable of taking into account new technology and responding to the changing needs of both the farm community and society. As such, there needs to be a mechanism to recognize changing circumstances.

A prime example of what I'm talking about here was the fact that just recently with your environmental committee we started adding the words—and it's not at its final stage yet, so I'm a bit premature, but we've come up with the idea that baseline testing, for instance, before farms go into operation is a good method of protecting both farmer and society, because we know then what the situation was prior to construction. It helps us down the road, if there's a complaint, to know that a farmer was in compliance or that he wasn't.

I've probably got more comments, but I would hope to have a bit of time for questions, so that's all I'm going to say right now.

The Acting Chair: Thank you, Mr Danbrook. You've actually effectively taken up your 15 minutes in your presentation, but unless there's some pressing issues of the caucus members, I will allow some flexibility.

Mr Johnson: There was a pressing issue, because I sat here all morning and had to listen to how great Grey and Bruce counties are, and indeed they are. But I just wanted to thank Russ, because he comes from Perth, and to let people around here know that we have some good farmers down there too.

Russ, the other thing I wanted to say that is important—and I see you're calling your local control CERTs now instead of peer review committees—is the underlying guide or template or whatever for those was what we would call the fence-viewer, and anybody who doesn't know how that was set up and has been working for the last 140 years in Ontario, ask me later and I'll tell you. But that's the way the thinking on the peer review committee was established. I'd just like to thank you for being here.

The Acting Chair: I don't know how many people that was pressing for, but thank you very much, Mr Johnson.

Thank you very much for coming and making your presentation.

Mr Danbrook: I limited what I handed out to just two pages of recommendations. I assumed that you don't have time to read 50 pages.

The Acting Chair: That's effective, thank you. We all have a copy.

Mr Murdoch: I should point out that Middlesex has good farmers too.

Mr Peters: And Elgin.

GREY COUNTY FEDERATION OF AGRICULTURE

The Acting Chair: I would call on the next speaker, from the Grey County Federation of Agriculture. Please take a seat, and if you could identify yourself for the record.

Mr Karl Chittka: Good afternoon. I'm Karl Chittka. I'm the president of the Grey County Federation of Agriculture. I'm also a farmer in Grey county. The Grey county federation would like to say thank you for having the opportunity to make our views known before this committee. We did quite a bit of research on Bill 81, and here it goes.

The Grey County Federation of Agriculture has been concerned about the uncertainty for farmers and rural communities in planning for and addressing concerns about the trend toward larger and more intensive agricultural livestock operations. We have been working with county council and municipalities to develop a reasonable and balanced approach to managing the conflicts arising from this trend by participating in development of bylaws as well as peer review committees.

We are in agreement with the need for this legislation such as proposed in Bill 81 in order to have rules applied equally across the province as well as to instill confidence in the public that food production is being carried out in a safe manner.

Administration: we agree that administration needs to be done on a province-wide basis in order to avoid having different treatment in different jurisdictions, which leads to confusion and conflicting rules in the neighbouring municipalities. An example of this exists right here in Grey county, where minimum distance separation guidelines have been interpreted differently than in the rest of the province and single rural residences are treated the same as hamlets or villages.

The lead ministry must be the Ontario Ministry of Agriculture, Food and Rural Affairs, which has the expertise and understanding of farming. Environmental technical support can be obtained from the Ministry of the Environment.

It is unacceptable to require farmers to pay fees in addition to all the other changes and expenses associated with compliance. The government must ensure that this initiative is well funded so it can be properly administered.

The implementation of Bill 81: the schedule for new and existing operations to come under the act is acceptable to the Grey County Federation of Agriculture; however, the act should include all applications of nutrients on land, such as commercial fertilizer and biosolids.

Enforcement: we are concerned that the largest portion of this act, the purpose of which is to set guidelines and parameters for certain types of agriculture, is focused largely on enforcement. Some 40 of the 60 articles in the act deal with enforcement. Farmers would prefer government to focus on providing guidelines to support the implementation of best management practices in a more positive approach.

1450

It is not acceptable that inspectors may enter farm premises without prior notice or a warrant. This raises questions of individual rights being taken away, as well as issues of biosecurity, which are becoming more and more important in livestock production in view of the recent outbreak of foot-and-mouth disease, among others. Extreme measures should be reserved for producers who have had the opportunity and prior warning to correct problems and have not done so within a reasonable time frame.

As previously mentioned, the Grey County Federation of Agriculture has supported the peer review committee approach for resolving problems. We ask that the legislation include this review and resolution mechanism as part of the process prior to more severe steps being taken to ensure compliance to the act. We recommend that the members of the peer review committee are active farmers who are registered under the farm business registration act and who understand the implications of certain situations. It is not reasonable to expect non-farmers to have expertise to advise on agricultural production.

We are concerned about subsection 17(3), in that these guidelines may allow for frivolous complaints to interfere with a farming business carrying on normal practices. It must be clear that only complaints of a substantial or severe nature can be acted upon under the act.

Now we get to the money part. Cost factors: this act will place expectations on agriculture which imply changes that will increase the costs, both through management and infrastructure changes. While farmers see the benefits in increasing environmental protection, it will be society as a whole that will reap the benefits. It is not acceptable, then, that farmers carry the entire burden of costs associated with meeting the requirements of this legislation. The government must provide financial support to farmers who will need to upgrade facilities or pay for expertise in order to meet the new guidelines. We request that a special funding and education program be developed for this purpose.

Farmers in Grey county are law-abiding citizens who want to contribute to the protection of the environment. We do not want to be treated like criminals by having legislation that makes it difficult or impossible to obey the law.

That's the presentation of Grey county. Thank you.

The Acting Chair: Thank you very much for your presentation. We have just a little over two minutes for each caucus to make any comments and ask questions, so please stay for that. The first on the rotation is the NDP.

Ms Churley: Thank you very much for your presentation. I have no questions. Your position is one that we've heard on many occasions and I think I've asked the questions, but I thank you for your presentation.

Mr Johnson: Thanks very much for being here and contributing to our deliberations. What I wanted to clear up a little bit, if I could, is on the access. You're saying that somebody shouldn't be able to make a spot check on a farm. I think one of the important things to realize is that, first of all, farmers are unique, and that is that their business place is usually their home. Most of us aren't that way. A lot of us would live in a house and drive to the store or the garage or whatever down the street. So I don't think that this would give access to your home on a visit. But there are other occasions when the government, for whatever reason, makes spot checks. I would think a workplace that would be significant would be a food processor in town. The workmen's compensation and those kinds of places make visits. Is there some way of accommodating that sort of need or want, without phoning up two days before and saying, "I'm coming; please have some clean boots and so on for me"?

Mr Chittka: I don't think this is what we are afraid of, an inspector coming to the farm to do an inspection. It's just the way this legislation is written, it says you can get in there any time and you don't have to even announce yourself. I don't think that is right because, first of all, in reference to your comments about the farm being separated from the rest of the operation, this is maybe true, but in many cases the office part is kept in the house. If they want to go look at the books and everything, they would have to enter the dwelling.

I was a milk producer for many years. The inspections generally from the milk inspection branch were done on a random basis as well or when there was a problem. It depends on the diligence of the inspector, to a large degree. Our inspectors, and we had three of them, generally were pretty good. They'd come in, they'd announce themselves: "We're here." Most likely we knew them. But there was one occasion when we had an inspector who felt he owned my farm. He just walked in—

Mr Johnson: He didn't want to pay for it.

Mr Chittka: I was going to give it to him, but he didn't want it. But anyway, he just walked into the milk house without announcing himself. In my milk house, among other things, I have the shower in there as well, so anybody could have been right in the shower. It depends how diligent the inspector is in doing his job. If it's a reasonable approach, then I think inspections can be done, but I have a real problem when somebody says that you can enter premises without a warrant or without announcing yourself. That to me is pretty close to my heart, let's put it that way.

Mr Johnson: I understand.

Mr Peters: In my opinion, an extremely important part of this legislation is going to be these advisory committees or the environmental response teams to search. We just heard a previous presentation on that. I'm not passing judgment where the complaints come from; anybody can make a complaint. But I'd like you, if you wouldn't mind, to expand, because it's very obvious in your presentation here that with these advisory committees, you don't feel that there is a place for the non-farm rural resident on these committees. You base that on the expertise to advise on agricultural production. I just wonder why you wouldn't want the non-farm rural resident, besides not being experienced in agriculture. They live in the community, they're part of the community. Why wouldn't you want a non-farm rural resident on a committee that is supposed to help deal with complaints and solve them?

Mr Chittka: I think we're saying we want only farmers or farm people who are knowledgeable in farming to be on the committee. I'm not much good being on a medical committee to deal with the doctors' issues or other issues. You have to have a thorough understanding of a farming operation in order to make judgments. There are some things which are a normal farm practice, and obviously they don't hurt the farmer either. We're not asking not to have input from non-farm residents, but at the same time I think being on the committee and making the final decision should be left to the people of the same profession.

The Acting Chair: Mr Chittka, thank you very much for sharing your views and taking the time to come and speak to the committee this afternoon.

1500

GREY-BRUCE CHRISTIAN FARMERS ASSOCIATION

The Acting Chair: Our next presenters this afternoon are from the Grey-Bruce Christian Farmers Association, if you could come forward.

Mr Tom Bergstra: Thank you, Madam Chairman, and thank you for giving me the opportunity to speak on behalf of the Grey-Bruce Christian Farmers Association. My name is Tom Bergstra and I'm the secretary of the association. I don't expect my submission to be near the quality of what others have been able to submit. I only found out yesterday that I was able to speak today, but that was no fault of yours. That was only my own.

I will speak essentially from material received from our provincial board office in Guelph, from a comments-and-questions document. I'm sure you will eventually see all of this document, but I will not go through all of it today, only parts. Some of this you may have already heard in Clinton yesterday. I will on occasion give a Grey-Bruce flavour to the comments and perhaps some personal opinion as well.

Speaking personally, I grew up only a few miles from Owen Sound. I am an engineering graduate from

McMaster University and I worked for a large multinational chemical company for nine years and am a member of the Professional Engineers Ontario. I began dairy farming in 1993 and that is my current occupation.

First, some general remarks. When I skim over the proposed act I get a sense that the essential intent of the act is to regulate the storage, transport and application of farm manure, all with the intent that the nutrients in the manure are used for the intended purpose—that is, to help crops grow—and that the contents of the manure do not cause pollution.

The three main areas are storage, transport and application. Therefore, I will speak only to those parts of the act related to that. Minimum distance rules and livestock unit declarations and such things are there mainly to put limits on location and size of manure storage. Licensing deals with transport and application, and nutrient management plans have to deal with manure application as well.

Storage is not overly complicated. It needs to be large enough for what is produced to prevent needing to apply manure at the wrong time. It also needs to be environmentally sound. Storage is an issue not because there is much more livestock in Ontario than years ago, but because the livestock is more concentrated. Instead of 10 small barns on a side road, there are two. Therefore, it is a simple reality that manure is transported further than years ago. Instead of 10 barns in the middle of 10 respective farmlands, the manure moves from a central barn along public roads to the farmland.

Speaking from a farmer's perspective, there are three general pitfalls that legislation must avoid:

(1) I feel that farmers must see the legislation as fair and fairly enforced. A farmer will easily justify incorrect behaviour if he feels other farmers are already getting away with something.

(2) Legislation must not force a farmer to do something he feels or knows is stupid. For example, I know a farmer who wants to improve his manure storage to prevent runoff. But he lives near the Niagara Escarpment, so when he tries to build a manure storage to improve his current practice, he's not allowed to because of restriction on building near the escarpment. This type of thing causes farmers to become disillusioned with regulations and sometimes the baby gets thrown out with the bathwater.

(3) The regulation must not require too much paperwork by farmers. Pages and pages of forms only lead to the idea that no one can possibly read and review all this, so what's the use?

Comments on the act: definition of business of applying materials containing nutrients. Clauses 5(2)(d) and (e) use the phrase "business of applying materials containing nutrients," and contemplate requiring those engaged in the business to be licensed.

The Christian Farmers Federation of Ontario requests clarity in the act so that farmers applying their own nutrients to their own lands will not be required to be

licensed. Only those in the business of applying others' nutrients should be licensed.

I would like to add some Grey-Bruce flavour to this. Here in Grey-Bruce we will still occasionally help out our neighbours, either for a payment or for a favour. I have helped my neighbour spread manure.

We would favour a different demarcation of those requiring a license or not. We would say that if your transport vehicle needs a license from the MTO, then you need a license too. In other words, if a farmer uses a tractor-drawn spreader, he wouldn't need a license. Once he goes to a truck, whether hauling for himself or others, and the truck needs an MTO license, then he needs a license, too, to apply material containing nutrients.

Management of materials containing nutrients and regulations respecting farm animals, part II: section 5(2)(a)(i) proposes standards for the size, capacity and location of buildings or structures that are used to store materials containing nutrients or to house farm animals. How will these standards relate to the existing powers of municipalities to adopt the site control bylaws? Is this a form of provincially managed site control? Will these standards include separation distances from conflicting land uses? If so, will the existing minimum distance separation formulas 1 and 2 be used for these regulations? CFFO does not support the continuation of the automatic expansion factor now built into the MDS formulas.

Licensing farmers: sections 5(2)(b), (c), (d) and (e) propose qualifications and licensing for farmers. The act needs to be clear in that not all farmers will need to be licensed but all farmers will, in time, be required to participate in nutrient management planning. The CFFO supports requiring all farmers to participate in the basics of nutrient management, no matter the source of nutrients or the size of the agricultural operation.

Section 55 contemplates licensing being subject to a delegation agreement. Delegation of licensing raises concerns for CFFO. Who will be responsible and who will pay the costs? CFFO believes that licensing should remain a government function and a public cost.

Section 5(2)(g) will require farmers to document nutrient management plans. CFFO believes that government should provide financial and advisory support to enable compliance with the new requirements.

Here I want to add some personal comments. I realize I'm probably in the small minority, but I wonder if filing nutrient management plans by farmers is one of the pitfalls I mentioned earlier that farmers should avoid. If the regulations focused on the land and regulated the amount of nutrients that could be applied to land, then it would be up to the farmer to comply. There would be variation depending on the geophysical data, soil analysis and other technical aspects. The farmer would need to analyze his manure, and both the landowner and the applicator would be responsible, but it would be simpler.

For example, if I buy a car and start to drive it, I need a license and insurance, but I don't need to file a plan that says where I will drive, when and for how long. I need to

comply with all the rules of the road or be subject to law enforcement by traffic police. It's the same with applying nutrients to the land. Similarly, there are rules about drug residue in livestock sent to slaughter or in milk sent off for human consumption. I must comply, but I don't file a plan on what drugs I will use, how and when.

Section 5(2)(h) contemplates classes of agricultural operations. CFFO supports the creation of classes of agricultural operations, and all classes need an appropriate level of participation in nutrient management planning. The CFFO supports the creation of three classes of agricultural operations based on the number of livestock units and their density on the site. There would be less than 50 livestock units, 50 to 400 livestock units or greater than 400 livestock units.

Section 5(2)(m) creates the possibility that farmers will be required to file their nutrient management plans with a public agency. The act should be clear on whether this is a municipality or a provincial government agency. The act should also be clear to what extent the filing will make a nutrient management plan a public document. The CFFO believes that only the approval document for the nutrient management plans should be available to all members of the public.

Testing manure for nutrients: sections 5(2)(p) and (q) contemplate requiring the testing of manure for nutrients. Testing manure for nutrients is not an exact science. Nutrients in manures are highly variable, making test results of limited value in nutrient management planning. Nutrient content guidelines based on management systems and crop uptake information are more likely to provide the margin of safety than specific tests. Analyzing the materials containing the nutrients is only a part of the nutrient cycle equation. Testing soil samples where the nutrients are to be applied is more important. Will there be regulations governing the manner in which soil samples are taken and analyzed?

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Minimum distance separation: section 5(2)(s) contemplates minimum distance separation in the regulations. CFFO sees no merit in creating a new set of regulations for minimum distance separations for the location of livestock facilities when these exist under the Planning Act and have done a reasonably good job of siting facilities for decades.

Section 5(2)(t) contemplates regulations when the ownership of materials containing nutrients is transferred to other than the agricultural operations that produced them. The CFFO believes that all liabilities for the environmentally responsible management of the nutrients should be transferred from the producer to the new owner, where the new owner has demonstrated compliance with this act.

Electronic documentation requires all documents to be filed electronically. The CFFO does not support forcing all farmers to move to electronic record-keeping. The act must allow for filing by other means.

I'll just conclude with provincial guidelines versus provincial standards. Section 5(8)(e) contemplates ex-

empting some agricultural operations from the act. The CFFO does not support the exemption of any agricultural operation. We support appropriate nutrient management requirements for small and medium-sized farms. This is significant for Grey-Bruce. There are quite a number of small, hobby-type farms in this area. Would it be necessary that all of them require nutrient management? What if they do not even store manure?

I have just a few concluding remarks. The CFFO remains unconvinced that this act takes the best approach available for the development of pollution prevention initiatives for materials containing nutrients. Ontario is too diverse for a one-size-fits-all approach.

Our preference is for provincial guidelines that establish maximums and minimums for various pollution prevention standards; establishment of enabling powers for municipalities to adopt nutrient management bylaws, including the requirement that the municipalities consult on the need to modify provincial standards and demonstrate there are local needs that make the modification important; training and financial support for municipalities to build capacity to deliver and enforce; provincial third party review of all nutrient management plans; no fees or other cost-recovery initiatives—farmers will be paying enough to make or have others make nutrient management plans and update them; all farmers participate in nutrient management planning after a graduated entry process.

That concludes my comments. Thank you for your attention. I'll try to answer questions. I know there's not much time left.

The Chair: We've got about 30 seconds for comments. We'll start with the PCs.

Mr Murdoch: When you first started you said you wouldn't be as good as any of the rest. I think you were quite comprehensive there and we appreciate that. We heard from the Christian Farmers yesterday too, and from Elbert van Donkersgoed.

If the act comes into force, how important is it that you and organizations like yours get a chance to look at the regulations before they become law? Is that imperative?

Mr Bergstra: I would say it's imperative, yes.

The Chair: I will go to Mr Peters.

Mr Peters: Just wearing your own personal hat as a dairy farmer, have you given any consideration, from what you've seen of this act and what you've read, to how it could personally impact on your own farm, and would you be looking at having to make some substantial upgrades at home?

Mr Bergstra: Yes. I have what I call a semi-solid manure system. My manure is simply stacked on an outside pad of concrete. I'm sure I would have to have a covered system that would prevent water running into it and manure seeping off it. So it would have to be changed to a contained and covered system.

The Chair: We'll go to Ms Churley.

Ms Churley: There's no time to ask the questions I wanted to ask. Are you going to provide a copy of your document so that we can take a look at it later?

Mr Bergstra: Yes.

The Chair: Thank you, Mr Bergstra. We appreciate this presentation from the Grey-Bruce Christian Farmers Association.

GREY BRUCE COUNTY PORK PRODUCERS

The Chair: Our next delegation is the Grey Bruce County Pork Producers.

Ms Wilma Jaffray: I'd like to say good afternoon to the committee. My name is Wilma Jaffray, and I'm a pork producer from Bruce county. I'm also a councillor on the local Grey Bruce County Pork Producers.

Ms Liz Samis: I'm Liz Samis. I'm a Wellington county pork producer.

Ms Jaffray: It's with much anticipation that pork producers and the general public look to the implementation of this act. For producers, there's a sense of relief that a province-wide standard will be put in place which will hopefully alleviate some of the tensions which exist in the countryside with regard to hog operations. For producers, there is also a sense of uneasiness surrounding what the implementation could mean to them on an individual basis. I will try to give some insight into what some of these concerns are for the pork industry.

First and foremost, I think, is the cost of compliance. Everybody wonders, "Where do I fit into this? What will it cost?" It affects the viability of the farm in the end.

The Ontario pork industry competes on a worldwide stage. The price for hogs in Ontario is based on US markets. We have no way of influencing this price. It is strictly supply and demand in the North American marketplace. Also, pork producers in this province have no financial safety net tailored specifically to pork production. Market fluctuations must be weathered by producers on their own.

Because of these two realities, it can be seen that the Ontario pork industry must be very efficient to survive and thrive into the future. Simply put, our cost of production must be in line with neighbouring jurisdictions or we will not be competitive. The cost of implementing the Nutrient Management Act on farms must not be so burdensome that we are placed in a position of being uncompetitive on a worldwide stage.

The implementation of the regulations on farms will have costs for producers. Because pork is a commodity where pricing is not determined on a cost-of-production formula, all associated costs of implementation will be borne by the producer.

Depending on what the costs of compliance are, it could lead long-term to a migration of the pork industry and all its associated economic spinoffs to other jurisdictions. This would not only affect the pork production industry, but also meat-packing, processing, trucking etc.

I believe it is very important that the financial impact of the act for pork producers be carefully studied and appropriate government assistance given to aid in a smooth transition to the future. From the public's per-

spective, I believe the justification for this assistance is in working toward a future where all are confident of the safety of water in the province.

One of the things that I think is very much on the minds of producers is that we be consulted about the regulations that are put in place. The Ontario pork industry is very diverse in its producer profile. We have the full spectrum of production styles, all the way from a mixed, traditional family farm operation, which may run small numbers of hogs seasonally, to highly developed systems which employ many people as consultants, barn workers, barn managers, office personnel etc. All styles of production are capable of producing a high-quality pork carcass in an environmentally sound manner. All styles of production provide a financial existence for the owner and the employees. They are all important contributors to the Ontario economy.

The drafting of the regulations must come to a standard that is achievable for these diverse styles of production. To be achievable, they must be affordable. If one set of standards is to govern the entire industry, the cost of compliance must be affordable by all industry participants, regardless of size. If a tiered system is put in place, the regulations set for each category must be at a level with reasonable associated financial costs.

Although large operations may be perceived as having more potential for influencing the environment by virtue of their size, it would be unfair to place excessively high standards on this size of operation. Whatever the size of operation, the cost of compliance must allow them to compete on the worldwide stage in the future.

For these reasons, I strongly urge that the setting of the regulations be done in consultation with the pork industry. Decisions made by people who have no on-farm realization may be correct on paper, but may also be grossly in error on a practical basis. It is in consultation that good, workable end results happen. In this scenario, the pork-producing community will see the regulations in a more positive light, rather than as something that has been imposed upon them. A positive attitude will go a long way toward achieving full province-wide compliance.

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Something that I think touches everyone in this province, which is happening in our communities, is that the public trust—there are just a lot of mad people around. In the past, the farm community enjoyed a healthy coexistence with non-farm neighbours. The relationship was built on mutual respect and trust—trust that what the farm community was doing was healthy and productive for society as a whole. Unfortunately, today this trust has been eroded. Mention the term "hog barn," and the immediate association by many members of the public is negative. From my personal perspective, this is a regrettable occurrence. Our industry has lost some of its former esteem.

In drafting the regulations, the concern of the public must also be considered. All people, regardless of where they live, should be concerned about the safety of their

drinking water. The public must feel assured by what this legislation does. It seems to me we need an educational component based on good scientific principles to communicate the goals that we are all working so hard to achieve.

Dollars are always on everyone's mind and are on mine as well. Much is expected of this legislation. It needs to address public concerns while at the same time being feasible for the pork industry. Because of its importance, it is imperative that sufficient budgets be devoted to the implementation and enforcement of the act. Enforcement needs to be consistent across the province. For reasons of public confidence and consistency, I believe that implementation and enforcement should remain under the domain of the provincial government. Municipal governments must not have all costs downloaded to them. Sufficient funds must be made available from the provincial government to keep up the program integrity province-wide.

I'd just like to comment on a couple of specific concerns, things that are talked about. One is in the regulations when they are eventually drafted, the use of calendar dates for spreading nutrients. I'd like to share with you the experience which a fellow producer had during a recent trip to Holland. Hopefully this will give some insight into what the setting of calendar dates for nutrient spreading may do if implemented.

On a recent trip to Holland, this producer happened to be in that country on the days leading up to a spreading deadline. After the deadline date, no spreading would be allowed until March of the next year. What he saw were producers and custom applicators working day and night, sometimes in wet conditions, to meet the deadline. The smell of so much being spread in such a short time was overwhelming. The week after the passing of the deadline was dry, with ideal conditions for spreading; however, no one was allowed to spread at that time because of the imposed deadline.

My concern is that if a calendar date is imposed on Ontario operations, it would lead to a similar scenario. So much work being done in a short time leads to worker fatigue, equipment breakdown, spreading in inclement weather etc. Imposition of a calendar date could very well exacerbate the problems we are attempting to solve.

The other in the drafting of regulations is just generally inspection of farm premises. The powers given in the act regarding inspection of farm premises give a feeling of uneasiness to producers. The attitudes and actions of these inspectors need to be consistent across the province. The inspectors must realize that in many cases they are entering a family's property of residence; the farm is their home. Utmost respect must be given to observe biosecurity measures for each farm. Many producers have devoted much time, effort and financial investment in building up their operations to the high levels of production they have achieved. With one visit from an inspector who has not followed the biosecurity measures of a farm, a lifetime of work could be jeopardized. Disease is very easy to spread; the UK will

testify to that. Within Ontario there is much difference between herds in immunity levels to certain swine diseases. This issue needs careful consideration. Again, consultation with the pork industry would be of benefit to ensure that standard operating procedures for inspectors are such that the spread of disease never happens.

In summary, I'd like to say it is my hope that the long-term effects of the Nutrient Management Act will be the presence of a strong pork industry, with all of its associated financial spinoffs for the province, while at the same time preserving our natural, God-given environment for future generations to enjoy.

Thank you for allowing me to speak today.

The Chair: Thank you very much. We have a minute for each party.

Mr Peters: I have a question for Liz. It's not pork-related; it is because of where you live, Wellington county. Are there cultural issues that we need to take into account in dealing with the Amish and the Mennonite community, things that we may put in legislation, in regulations, that we need to be considerate of? I ask you the question because I heard "Wellington county."

Ms Samis: In Wellington county, we do have a number of Mennonite and Amish farmers. I think some of the similar points that have been raised in terms of cost of compliance around manure storage issues—we're all farmers, so there's no difference in terms of that aspect. There's going to be some economic impact on-farm, and they tend to be smaller, straw-based farmers. But I think all farmers are concerned about the cost of compliance.

Ms Churley: Thanks for your presentation.

I just wanted to comment briefly and ask your opinion on this. There was a report in the Ottawa Citizen recently that said about 86% of the Dutch intensive hog farms came here to western Ontario because of strict environmental regulations there. We're hearing some reports that because of stricter environmental laws in Quebec, some of the farmers are coming to Ontario. As I understand it, they brought in stricter regulations in those jurisdictions and some parts of the United States because of pollution problems: leaks into streams and drinking water. So I guess it's one of those chicken-and-egg questions, so to speak. If they're coming here because we have fewer or less strict regulations around the environment, we have to watch what we're doing here, don't we, as well, if that's why they're coming here?

Ms Samis: We have a fair number of our farmers who have immigrant status. I find those farmers come over here with good technology and are very productive, very environmentally focused. I don't know if it's regulation-driven or if it's land-base driven or cost of production. The economic aspect, regardless of jurisdiction, does play in. We are competing on a world market. But I don't think we should categorize particular segments of ethnic background necessarily. The issue is farming.

Ms Churley: Oh, my goodness, that's not what I was doing. I'm just reporting an article that was in the Ottawa Citizen, and that's what it said.

Ms Samis: In the Quebec farm situation, the government there has certainly helped farms with environmental programs and initiatives, and we would hope our government would do the same for Ontario farmers.

Mr Johnson: I have not so much a question as a comment. I had made reference to Russ Danbrook a little while ago, of course, coming up from Perth. Wilma, we're pleased that you came and gave us the benefit of your experience and so on in our deliberations. I just wanted to say, Liz, it's good to see somebody from Wellington county here as well.

Ms Samis: We do work together.

The Chair: Thank you very much. We appreciate that from the pork producers.

We've certainly appreciated having the Ontario Legislature up here in Owen Sound. I've had the benefit of five bales of real nice alfalfa and timothy here. We got a very nice fragrance from that during these hearings.

The bus is standing by to head south. We get part of the weekend off, and on Sunday we head east. Anyone with questions around transportation to Ottawa on Sunday, contact our clerk, Tom Prins. Monday, we reconvene at 10 am in Kemptville, Purvis Hall, University of Guelph. Tuesday is the plowing match. We're back in Peterborough on Thursday. We go to North Bay on Friday.

We're adjourned.

The committee adjourned at 1531.

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